

## Exhibit 2

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

TRANSCRIPT OF SENTENCING

DECEMBER 17, 2020, at 10:00 A.M.

BEFORE THE HONORABLE CHARLES B. GOODWIN,

JUDGE PRESIDING

Recorded by mechanical stenography  
Transcript produced by computer-aided transcription

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U.S. v. Ledbetter \* 20-CR-168-G  
December 17, 2020

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1 A P P E A R A N C E S

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1 (Call to Order of the Court.)

2 THE COURT: Good morning, everyone.

3 The Court calls the case of *United States v. Christopher*  
4 *Steven Ledbetter*. It's Case No. CR-20-168.

5 The defendant has previously pled guilty to possession of  
6 an illegal machine gun in violation of 18 U.S.C. Sections 922  
7 and 924. Following the submission of a presentence  
8 investigation report, we are here for imposition of judgment  
9 and sentence.

10 I'll have counsel make their appearances.

11 MR. DILLON: Matt Dillon and Jessica Perry on behalf  
12 of the United States.

13 MR. JOHNSON: Good morning, Your Honor. Michael  
14 Johnson on behalf of Christopher Ledbetter who is present in  
15 the courtroom.

16 THE COURT: All right. Thank you.

17 Okay. Let's go through a few preliminary matters.

18 First, as far as health and safety, it looks like we're  
19 fairly well spaced out. I'd say to the audience: Anybody  
20 who's not in a pod together, as we say, try to space out a  
21 little more, if that's appropriate. I'm going to trust all --  
22 everybody's judgment on that.

23 As far as masks, it looks like we're all wearing masks.

24 I would allow Counsel, as you address the Court, or the  
25 defendant, to the extent he addresses the Court, to remove your

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1 masks, at that time.

2 Generally speaking, I'm going to have everybody at the  
3 government's table use the microphones that are there.

4 I'll have counsel for the defendant use the microphone  
5 that's in front of you, and the defendant can use the  
6 microphone in front of him.

7 At the point in time that we get to any longer statements,  
8 I may have you come forward to the podium, but, as a general  
9 matter, let's stay at the tables and use the different  
10 microphones.

11 Third, as far as materials at issue, in addition to the  
12 presentence investigation report and the addendum, I've  
13 received the government's sentencing memorandum, which includes  
14 various exhibits that I've reviewed as relevant.

15 I've also received an email from United States Probation  
16 Officer Alicia Maddocks forwarding a correction that was  
17 received from counsel for the government insofar as one of its  
18 objections that was reflected in the addendum.

19 Is there any other material that I should have that anyone  
20 is aware of?

21 MR. DILLON: Not at this time, Your Honor.

22 MR. JOHNSON: Judge, just to be clear, the addendum  
23 included my objections, and that's --

24 THE COURT: Yes, yes.

25 MR. JOHNSON: And then the agreement that the

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1 government and I had regarding the exhibits, even though  
2 they're submitted with the government's sentencing memorandum,  
3 Mr. Dillon and I had talked and government counsel had talked  
4 and agreed that these would be the exhibits. Basically,  
5 they're joint exhibits. I have no objection to those.

6 THE COURT: All right. Very good.

7 All right. Let's see, then. I'll state for the benefit  
8 of the defendant that there are in general two parts to these  
9 proceedings. The first is the determination of the applicable  
10 guideline range under the United States Sentencing Guidelines.  
11 That part can get pretty technical for people who are not  
12 familiar with it -- lots of detail on the regulations and so  
13 forth -- but it's important, so bear with us.

14 The second part of the proceeding is the consideration in  
15 full of what is an appropriate consequence under the law for  
16 the criminal activity that is at issue in the case, and, at  
17 that point, I will allow you to make a statement to the Court,  
18 if you wish to, but you're not required to do so. You can  
19 stand on the argument of your attorney, if you prefer.

20 After that, then I will typically take a recess and -- you  
21 know, for 30 minutes or so and consider everything that's been  
22 presented and all the arguments that have been made and then  
23 return to announce my sentence, at that time.

24 Okay. With that, then, let's begin with the calculation  
25 of the guideline range.

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1 Has the government had the opportunity to review the  
2 presentence investigation report and addendum?

3 MR. DILLON: Yes, Your Honor.

4 THE COURT: And does the addendum accurately  
5 summarize the objections that the government would make today?

6 MR. DILLON: Yes, Your Honor.

7 THE COURT: Okay. Has the defendant had that  
8 opportunity?

9 MR. JOHNSON: We have, Your Honor.

10 THE COURT: And does the addendum summarize the --  
11 accurately summarize the objections that the defendant would  
12 make today?

13 MR. JOHNSON: It does, Your Honor.

14 THE COURT: Okay. All right. Then, pursuant to  
15 Federal Rule of Criminal Procedure 32(i), I will receive any  
16 exhibits and hear any testimony that may be needed to resolve  
17 the disputed portions of the presentence report. Let's start,  
18 though, with government's counsel and some argument and try to  
19 narrow down which of the objections that you've made actually  
20 require factual findings by the Court. So...

21 MR. DILLON: Your Honor, none of the government's  
22 objections actually affect the guideline. However, two of the  
23 objections affect the conduct that the defendant is being held  
24 accountable for. Specifically, that would be the additional  
25 machine gun and the additional grenade. I think that we've

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1 laid out our argument and the factual basis for that in the  
2 sentencing memorandum.

3 THE COURT: All right. So, first, we have some  
4 objections to paragraphs 16, 28, and 37, and, just to be clear,  
5 that's just additional information that the government would  
6 provide, and it does not affect the guideline range.

7 MR. DILLON: Correct, Your Honor.

8 THE COURT: All right.

9 MR. DILLON: And I did want to say nothing in our  
10 objection -- or our noted objections. The only additional  
11 thing was the inclusion of the firearm in facilitation of  
12 another felony. I didn't know if we wanted to take these one  
13 at a time or in bulk.

14 THE COURT: I -- I want to go through them one at a  
15 time, but I appreciated the broader point. I just wanted to  
16 talk about them one at a time so we've got it clear on the  
17 record.

18 As to that first set of objections, the Court denies the  
19 objections -- or more specifically finds that a ruling is  
20 unnecessary because the matters raised are purely additional  
21 information and do not affect the sentencing guideline range,  
22 and the Court would not consider those matters in determining  
23 the proper sentence of the case.

24 All right. Second, we've got an objection to paragraphs  
25 43 and 44, and those involve the matter that you mentioned

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1 insofar as an additional machine gun and additional grenade  
2 that you think should be attributed to the defendant in  
3 considering the sentence in the case.

4 MR. DILLON: Yes, Your Honor.

5 THE COURT: All right. All right. Then, similarly,  
6 as to the -- that matter, the Court finds that a ruling is not  
7 necessary because it does not affect the guideline range, and  
8 the Court will not consider those additional matters in  
9 determining the proper sentence in the case. The Court does  
10 accept it as additional information but does not find that the  
11 inclusion of those weapons would change anything about the way  
12 that I will go about determining the sentence in the case.

13 Third, we've got an objection to paragraph 45. Tell me  
14 what's going on there.

15 MR. DILLON: Your Honor, this specifically relates to  
16 the four-point enhancement for a firearm that could facilitate  
17 or did facilitate another felony. Probation, I think,  
18 rightfully used the pointing of a firearm as an underlying  
19 predicate felony for the basis of that enhancement. The  
20 government feels that there is an additional basis for that  
21 same enhancement, which is the firearm potentially facilitating  
22 the -- the eluding of a police officer.

23 If the Court were to find that the defendant did, in fact,  
24 point a firearm and that that facilitated -- that firearm  
25 facilitated the underlying felony of pointing, the government

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1 agrees that it doesn't change the fact that United States  
2 Probation has already recommended that four-point adjustment.  
3 However, obviously, if the Court found otherwise or found that  
4 to be insufficient, it could affect because the Court could use  
5 this other basis. In fact, we believe that the eluding is  
6 almost a stronger basis, but the result is the same if the  
7 Court adopts either scenario or both.

8 THE COURT: All right.

9 MR. DILLON: I'll also say, Your Honor, the -- as the  
10 government said, we intend to simply rest on the evidence that  
11 we presented in the sentencing memorandum. However, we do have  
12 Officer Hicks with McLoud Police Department here and Joshua  
13 Rich with FBI if the Court believes that that would in any way  
14 be helpful to further its finding.

15 THE COURT: All right. One of the reasons I want to  
16 go through the objections first -- both yours and the  
17 defendant's objections -- is to at least let everybody know  
18 what the factual determinations that I think really matter are,  
19 and then you can decide what you want to prove up based on  
20 that.

21 All right. As to that last objection to paragraph 45, I  
22 note that the defendant objects to application of the  
23 four-point enhancement, I believe. Certainly objects to the  
24 fact that he never pointed -- he said -- contends that he never  
25 pointed the firearm.

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1                   Mr. Johnson, tell me a little bit more about what's at  
2 issue there on your side and from the defendant's perspective.

3                   MR. JOHNSON: And we're specifically talking about --  
4 I guess it would be the conduct in paragraph 19 that then --

5                   THE COURT: More specifically, paragraph 45 and the  
6 question whether the defendant pointed the weapon in the course  
7 of --

8                   MR. JOHNSON: Correct.

9                   THE COURT: -- what I'm generally going to call "the  
10 pursuit."

11                  MR. JOHNSON: And -- and, Judge, yes, and -- and so  
12 I've read the probable cause affidavit. Obviously, no charges  
13 have ever been filed at the state level, and I've checked that  
14 as far as yesterday to make sure that no charges had ever been  
15 filed at the state level.

16                  One of the agreements that the government and I made --  
17 there are two videos of this entire incident: one from the  
18 defendant's point of view from a GoPro that he is wearing on  
19 his head, which clearly, I believe, shows this entire  
20 interaction; the other, a dash cam -- body cam video -- well, I  
21 thought it was a dash cam. It ended up being a body-worn  
22 camera by Officer Hicks, which also, I think, supports the  
23 defendant's argument that at no time -- sticking specifically  
24 to the pointing of a firearm -- was a firearm ever pointed at  
25 this officer.

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1           It is enhanced furthermore by the officer's body cam video  
2 that, when he finally does stop at the farm in a safe place,  
3 that the officer says, Hey, he has an AR-15 or an AR weapon and  
4 then backs up. At no time does the officer say, "Hey, he's  
5 pointing a firearm at us," or anything of that nature.

6           It is a factual dispute, but you can see it clearly on the  
7 body cam video that the weapon comes -- he clears the weapon,  
8 and it comes at about a 45-degree angle to the ground. That is  
9 it. It doesn't meet the statutory state definition for  
10 felonious pointing of a firearm, and it definitely was never  
11 pointed with malicious ill or anything else, which is required  
12 for this enhancement. That's the reason I agreed to allow this  
13 video jointly so that the Court could review it.

14           THE COURT: All right. And I have reviewed the  
15 videos.

16           Mr. Dillon, tell me a little bit more about -- well, first  
17 off, do you think the videos show that the firearm was pointed?

18           MR. DILLON: I think it shows that the firearm goes  
19 in the direction of the officer. I think that that's  
20 consistent with what the officer would say, which is the  
21 firearm was pointed in his direction.

22           When the defendant, in his own video, goes down -- and I  
23 think that's important. Mr. Johnson described it accurately --  
24 is to get some perspective of how this firearm was held in  
25 relation to the camera view. His camera is mounted on top of

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1 his head. He's got the rifle slung across his chest. The  
2 government, nor did Officer Hicks, ever contend that he raised  
3 a weapon to his shoulder or anything that high.

4 But, as the defendant looks down, you clearly see the  
5 weapon pointing out as he turns in the officer's direction. I  
6 think Officer Hicks's video is very clear: that he immediately  
7 says, "He's got a -- he's got an AR. He's got a rifle,"  
8 whatever he says, and immediately backs up and takes a  
9 defensive position once he clears face and feels safe.

10 The defendant, in a Facebook post later, even acknowledges  
11 what his intent behind that was, which was they -- basically,  
12 "They left as soon as I pulled out my AK."

13 I think that, in combination --

14 THE COURT: I think we need you to take your mask  
15 down. We've got at least a little bit of a muffle.

16 MR. DILLON: Yes, Your Honor.

17 I think, in combination with that, when you actually look  
18 at the state's statute -- and I apologize. If I can -- I have  
19 it pulled up on my phone, if I can.

20 THE COURT: Yes.

21 MR. DILLON: I wanted to read it accurately.

22 "Except for an act of self-defense, it shall be unlawful  
23 for any person to willfully or without lawful cause point a  
24 shotgun, rifle or pistol, or any deadly weapon, whether loaded  
25 or not, at any person or purpose -- persons for the purpose of

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1 threatening or with the intention of discharging the firearm or  
2 with any malice or for any purpose of injuring, either through  
3 physical or mental or emotional intimidation or for the purpose  
4 of whimsy, humor, prank, or in anger or otherwise."

5 It goes on to describe the type of weapons that are being  
6 used, but I think that, when you look at the defendant's  
7 Facebook posts, what he is saying during the pursuit and once  
8 he gets out at the compound, it's very clear what his intention  
9 was.

10 You have Officer Hicks who says, "He pointed it in my  
11 direction."

12 He would acknowledge, I proffer to you, it was dark out  
13 there. It's hard to see, but he clearly saw a rifle in his  
14 direction. I think it meets that standard for a preponderance  
15 to make that finding.

16 THE COURT: All right. I'll tell you that I think  
17 we've at least got a factual dispute about whether the weapon  
18 was actually pointed at the officer, and so I'm going to let  
19 you present anything you need to or point me to the exhibits,  
20 and, if we need to queue up the relevant portion of the video,  
21 I assume we can do that too.

22 Before we do that, though, let's talk about the  
23 alternative ground. So you argue that we get to the same  
24 four-point enhancement if the defendant was using the -- I want  
25 to make sure that I understand it right. It's using the

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1 firearm to facilitate eluding the police?

2 Tell me precisely the ground.

3 MR. DILLON: Sorry, Your Honor. If I can have just  
4 one moment.

5 THE COURT: Take your time.

6 MR. DILLON: Your Honor, I believe, according to  
7 Application Note 14 of 2K2.1, in referencing Subsection 116,  
8 that it applies if firearm or ammunition facilitated or had the  
9 potential of facilitating another felony offense.

10 I think that the case cited by the government is probably  
11 the most analogous and the only thing that we could find on  
12 point, which clearly stated that the Tenth Circuit found it  
13 didn't have to actually facilitate, which is, I think, the  
14 clear reading of that comment.

15 And you had a scenario exactly like this where there was a  
16 pursuit reached at times speeds of 50 miles per hour. Person  
17 got out of the car. When the officer ordered him to raise his  
18 hands, he raised one hand and then reached for a waistband.  
19 They ordered him again. When he puts both hands up, a Glock  
20 pistol fell out.

21 So, in that scenario versus the defendant's conduct, you  
22 never even have that defendant get the gun out of the waistband  
23 as opposed to this defendant who chambered a round while  
24 driving down the road during the pursuit and then gets out,  
25 aims at least generally in that direction, but he acknowledges

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1 later, "They left when I pulled out my AK."

2 He actually was able to accomplish what the defendant in  
3 the Tenth Circuit case couldn't, which was get the officers to  
4 go away and not arrest him.

5 It was his intention. He yelled over the phone for his  
6 mom to tell the stepdad to get the guns ready when he gets  
7 there. He himself yells at his stepdad to get the guns. It's  
8 clear what his intention is, And the nexus -- and, with all due  
9 respect to probation, I don't know if they were aware of that  
10 case prior to our citation of it. I think the nexus to it is  
11 very apparent.

12 And, when it says "had the potential to facilitate," I  
13 think that that's a lower standard, but I would even argue in  
14 this case it did facilitate the eluding. The officers backed  
15 up. He didn't go to jail that night because he pulled guns.  
16 That's exactly the type of conduct that we're fighting to  
17 discourage of others, and I think that that's the point of the  
18 four-point enhancement -- is, because he pled to a firearm  
19 offense, how else did he use that firearm?

20 Did he use it in connection with a crime other than simply  
21 possessing it? It is very clear he did.

22 THE COURT: All right. Mr. Johnson, so where we're  
23 at now is the potential alternative ground for the four-point  
24 enhancement and, specifically, the question of whether the  
25 firearm was used to facilitate or had the potential of

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1 facilitating the offense of eluding an officer.

2 I'll tell you that I'm inclined to agree with the  
3 government that, once the defendant pulls out a gun, and -- and  
4 the police officer has to back out down the road, then he has  
5 used that firearm directly to forestall the police from coming  
6 to stop him and arrest him.

7 What do you say?

8 MR. JOHNSON: Judge, I disagree, and I hope I don't  
9 get the term "ludicrous" with my argument, but this is one of  
10 the most common cases I see in state court: aggravated  
11 attempting to elude or, in this case, just attempting to elude,  
12 and it's been used as a reckless endangerment from flight to  
13 keep from getting arrested for the crime that you are  
14 committed.

15 In this case, it's possessing a firearm that he basically  
16 didn't pay a tax stamp for. He has -- he's made a select  
17 fire weapon legally owned until he put that switch on it and  
18 made it into a select fire. Now -- back then, it was bump  
19 stocks. Could have used a select fire switch. He didn't go  
20 through the proper background check, didn't pay his tax stamp  
21 for it. For that reason, it is a crime.

22 But that is not why -- and if you read through this -- he  
23 is attempting to elude these police officers. They are  
24 attempting, if you watch both the videos, to pull him over for  
25 no crime.

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1 You can see clearly on the video that there is no broken  
2 brake light. The brake lights are on. The taillights are on.  
3 They are not broken. It is on the officer's video, and it's on  
4 his video at nine minutes and three seconds into the GoPro  
5 video. Clear as day. There's nothing wrong with the  
6 taillights on that Ford Ranger.

7 This is not a high-speed pursuit. They are not going 100  
8 miles an hour, and this weapon is not being used to facilitate  
9 him getting to where he needs to go.

10 Attempting to elude is when you have committed another  
11 crime, and you are trying to get away for that crime in order  
12 to get this enhancement. That's what that four-level is. You  
13 are trying to not get caught with the crime that you are  
14 committing.

15 That officer's not attempting to arrest him for possession  
16 of a firearm. That officer's attempting -- and there might be  
17 some factual disagreement but attempting to arrest him or at  
18 least stop him because he has a broken taillight, at the time.

19 Now, the officer also says later on, "Well, he crossed the  
20 center line."

21 You have the video. You can see it. At no time does that  
22 Ford Ranger going 50 miles an hour ever cross a center line  
23 illegally. I mean, it's -- that GoPro is right on point. You  
24 can see the officers' lights in the rearview mirror, and you  
25 can see the Ford Ranger, until it, for the last two minutes,

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1 pulls onto a driveway that's kind of bumpy, and you can't  
2 really see anything, but that's a dirt road, Judge, with no  
3 center line.

4 I understand the government's argument saying, "Well,  
5 the -- he avoided arrest because he had a firearm." That  
6 wasn't the only firearm he had. He had a pistol on his hip  
7 that he was legally carrying as well.

8 So, for them to say that, "Every time a person carries a  
9 gun, and we decide that we don't want to arrest him right  
10 then" -- they could have arrested him right then. They could  
11 have called in more officers. They disengaged.

12 There's -- there's a phone conversation that they have on  
13 the phone that's not part of this record where the police  
14 officers and him are talking, and they just go away. They  
15 don't say, "Hey, we need you to come out so we can arrest you."  
16 "We need you to come here so we can arrest you."

17 They never told him they were going to arrest him. They  
18 never even told him why they were pulling him over. They just  
19 turned on their lights.

20 And, as the Court read in the PSR, this had been an  
21 ongoing dispute with the McLoud Police Department -- where an  
22 officer from the McLoud Police Department -- and we won't get  
23 into the second officer, but one officer had threatened his  
24 family, had threatened to kill them, and had been fired over  
25 this incident. This was a rapidly escalating incident between

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1 McLoud Police Department and with the Ledbetter family that had  
2 been escalating. That's it. That's all that was happening  
3 here.

4 So, when he drives to a safe place and says, "Hey, now I'm  
5 in a safe place where I feel safe, and I'm not getting pulled  
6 over by McLoud police officers" -- which, by the -- by the way,  
7 Judge, I don't understand, because they're out of their  
8 jurisdiction, they're out of their county, when they're even  
9 following him, why highway patrol or what other law enforcement  
10 has jurisdiction to even pull him over where he's at should  
11 have been able to do that, but that's a different argument.

12 As it relates to what my objection is, Judge, there has to  
13 be a nexus between the two. To give a person a four-level  
14 enhancement for not having a tax stamp, that -- that's kind of  
15 where we're at. It's not that he's a felon in possession.  
16 Completely different standard.

17 This is a -- he has a right to have weapons if he had the  
18 right tax stamp for that one weapon. He definitely had a right  
19 to have the other weapon. So, if he would have jumped out of  
20 the car and only had the gun on his hip, and they backed off,  
21 would we say, "Well, he had a gun, and, therefore, that's what  
22 facilitated it, and we backed off"?

23 It didn't matter what weapon he had. They were going to  
24 back off anyway. So it didn't facilitate him not being  
25 arrested that night for a broken taillight, which he did not

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1 have a broken taillight.

2 As for the attempted to elude, Judge, I -- I've put some  
3 objections in here, and that's why I wanted you to watch the  
4 videos. There's no cars being run off the road. This isn't a  
5 high-speed chase. There's no speed limits being broken. It is  
6 all on video. It's just he doesn't pull over until he reaches  
7 his family farm. And it's about seven minutes, and three of  
8 that minute -- or two and a half of that minutes is on the dirt  
9 country road in Lincoln County, way outside of McLoud and way  
10 outside of Oklahoma County or Pottawatomie County's  
11 jurisdiction.

12 So, no, I -- I disagree with the government that that  
13 firearm was not the reason he was not arrested that night.  
14 There was a bunch of other underlying causes and things that  
15 were going on, and, regardless of the firearm that he had, they  
16 weren't going to arrest him anyway.

17 So it's not the fact that he had a select fire firearm  
18 that caused him not to be arrested. It was the fact that any  
19 firearm or any incident or anything wasn't going to cause him  
20 to be arrested that night, because, quite frankly, I'm not  
21 really sure what he did wrong other than not pull over for law  
22 enforcement, which he was deathly scared of because of the  
23 death threats that had been going on with him and the McLoud  
24 Police Department and his family, Judge, all of which was  
25 documented in the PSR and unobjection to by the government.

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1                   THE COURT: All right. First, let me double-check  
2 with the court reporter.

3                   Are you able to hear Mr. Johnson okay?

4                   THE REPORTER: (Nods head yes.)

5                   THE COURT: All right. Okay. We've got a lot there.  
6 There's more stuff that we're going to talk about as we go  
7 along, but I want to focus in on this enhancement, and the  
8 argument -- really, the only argument that I heard that really  
9 matters to me, as far as that enhancement, is the question of  
10 did the firearm at issue in the enhancement, the one that  
11 facilitates eluding the police -- does that have to be the same  
12 firearm as the one that is the subject of the charge here?

13                  MR. DILLON: Fortunately, Your Honor, we don't have  
14 to wonder. As stated in the government's memo, the defendant  
15 confessed that it was. He told FBI. I don't -- I'm not even  
16 sure about this pistol, because what the defendant told the FBI  
17 was, "Yeah, that was my illegal gun. In fact, that was the  
18 only gun I had, at the time."

19                  So I don't think that we have to cross that threshold of  
20 deciding whether it had to be the same gun or not. We know it  
21 was.

22                  THE COURT: All right.

23                  MR. DILLON: We know it from the defendant.

24                  THE COURT: All right. Where's that?

25                  I want to make sure that I give that the full

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1 consideration.

2 MR. JOHNSON: And, Judge, I do need to make one  
3 clarification with the Court's permission.

4 THE COURT: Yes.

5 MR. JOHNSON: Judge, on my objection on paragraph 19,  
6 when I talked about a factual basis, because this is kind of  
7 paramount to what the Court's talking about, I put that the  
8 rifle was an AR-15 because there's other videos with him with  
9 an AR-15 instead of the AK carbine. I base that basically on  
10 the video of the officer stating that, when he got out, he had  
11 an AR. And there's a big difference, especially with a trained  
12 police officer, in noticing the difference between an AR and an  
13 AK.

14 But, in talking with my client afterwards and -- and  
15 watching the video of his statement that he made to the FBI, he  
16 did say that that was an AK -- the AK that he had in his  
17 vehicle.

18 So I want to clear that up in my objection so I don't  
19 mislead the Court.

20 THE COURT: All right. So we are talking about the  
21 same select fire weapon that was -- or select auto weapon that  
22 is the subject of the charge here?

23 MR. JOHNSON: Yes, sir, we are.

24 THE COURT: Okay. All right. All right. Then, as  
25 to the objection to paragraph 45 by the government, the Court

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1 finds that application of the four-point enhancement pursuant  
2 to Section 2K2.1, Subsection (b) (6) (b), Application Note 14 --  
3 that that enhancement is supported because the firearm at issue  
4 was used to facilitate the felony of eluding an officer,  
5 namely, at the point in time that the weapon was shown to the  
6 officer. Whether or not it was pointed directly at him, the  
7 officer backed up, and there was at least some continued period  
8 prior to -- or some extended period prior to any arrest being  
9 made.

10 The Court therefore finds that the application -- the  
11 four-point enhancement -- application of that four-point  
12 enhancement is supported by that ground facilitating the  
13 offense of elusion of a police officer.

14 As a result of that, the Court does not need to determine  
15 the factual dispute as to whether any weapon was actually  
16 pointed at the police officer. That said, if, for purposes of  
17 appeal or any other reason, either the government or the  
18 defendant wants to put evidence on as far as that specific  
19 factual question of whether the firearm was pointed at the  
20 officer, then I'll let you do that.

21 MR. DILLON: Your Honor, as part of the plea  
22 agreement, there was a appellate waiver as to the issues of  
23 the -- how the Court determines the guideline range. Because  
24 of that waiver, the government does not wish to present  
25 evidence, at this time.

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1                   MR. JOHNSON: Judge, I understand the Court's ruling.  
2 However, the position that the government has taken now -- that  
3 this was attempted -- that this was to keep him from being  
4 arrested that night -- is not what was stated in the PSR and  
5 was not previously what was stated by the officer. It -- I  
6 didn't object to it because I agreed with what the officer  
7 stated in the PSR, and it specifically said, in this part of  
8 paragraph 19, "From previous encounters with Ledbetter,  
9 officers and deputies knew the property was fortified and  
10 Ledbetter and his family were armed with guns. Therefore, the  
11 decision was made to leave the scene and complete a warrant of  
12 arrest affidavit," not that, "We didn't arrest him that night  
13 because he had a gun."

14                   That is a brand-new position that the government took in  
15 their sentencing memorandum that, up until this point, had not  
16 been raised by the government and was not in the presentence  
17 report.

18                   So I understand the Court's ruling, but, again, I think,  
19 that the government should have at least made that objection in  
20 the presentence report. I think they've waived that argument  
21 at this point to try to get their four-level enhancement.

22                   I think the only way they can try to get their four-level  
23 enhancement is by pointing of a firearm, because this is a new  
24 argument that the government has now made that was not  
25 supported by evidence in the presentence report that they

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1 supplied to the Probation Office, and I'm looking at the last  
2 sentence -- last two sentences in paragraph 19, Judge.

3 THE COURT: All right. Well, I'm looking  
4 specifically at the addendum to the presentence report and the  
5 objection to paragraph 45 by the government. That's on pages  
6 27, and then the probation officer's response is on page 28.

7 MR. JOHNSON: Yes, sir.

8 THE COURT: I read --

9 MR. JOHNSON: I understand.

10 THE COURT: -- that as clearly putting it at issue:  
11 that the government has raised the -- the argument of eluding a  
12 police officer and that that should be reflected and -- and  
13 support the enhancement.

14 MR. JOHNSON: Yes, sir. I understand.

15 THE COURT: Okay. All right. Then let's move on to  
16 the additional information that's requested by the government.  
17 This is on page 28 of the presentence investigation report and,  
18 specifically, the addendum thereto.

19 So it appears that this is just additional information.  
20 It doesn't affect anything insofar as the guidelines; is that  
21 correct, Mr. Dillon?

22 MR. DILLON: That is correct, and it is that  
23 additional information that was also referenced earlier, that  
24 we had emailed both counsel for the defendant and probation  
25 with the correction to the last two lines of that additional

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1 information.

2 THE COURT: All right. So, with the government's  
3 acknowledgment that the last two lines there, insofar as the  
4 additional information, should be stricken, I believe, does the  
5 defendant have any objection to my considering that additional  
6 information?

7 MR. JOHNSON: No, Your Honor.

8 THE COURT: Okay. All right. Then the Court finds  
9 that there's no ruling that's required insofar as that  
10 provision of additional information as it does not affect the  
11 sentencing guidelines.

12 Let's turn, then, to the objections by the defendant, and  
13 we'll have covered some of this in the discussion of the  
14 pursuit.

15 So, insofar as paragraph 15, Mr. Johnson, tell me: Is  
16 there anything that I need to actually decide as a factual  
17 matter?

18 MR. JOHNSON: Judge, no.

19 I -- I mean, did that happen? Absolutely.

20 Is that offense conduct? It is not. It doesn't affect  
21 the Court's decision one way or the other.

22 Why it is included in a presentence report, I do not know.  
23 It's no different than me walking up and down the street  
24 carrying a firearm. It's not the same firearm. It's a  
25 different firearm. It shouldn't be considered, and, that way,

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1 from my opinion, it shouldn't be included in the report, but I  
2 understand the Court's already said that, for lack of a better  
3 legal term, it's going to separate the wheat from the chaff; so  
4 I understand.

5 THE COURT: All right. The Court does find that a  
6 ruling's unnecessary because the additional information is  
7 merely -- or the information that's provided in that paragraph  
8 15 is purely informational, and it does not affect the  
9 sentencing guidelines, and the Court will not consider it in  
10 determining the proper sentence in this case.

11 Let's turn, then, to the objection to paragraph 16. Is  
12 that the same situation there?

13 MR. JOHNSON: A little different, Judge. It -- yes,  
14 for the ultimate ruling, it is.

15 Again, with the events that have happened in this country  
16 in the last six or seven months, this is just another name,  
17 whether it be Breonna Taylor or George Floyd. In this case,  
18 it's Duncan Lemp. You know, it's -- it's a call for people to  
19 say his name. People aren't happy with the way he was treated  
20 by law enforcement.

21 Obviously, I represent law enforcement a lot, so I know  
22 there's two sides to every story, but why that needs to be put  
23 into a presentence report -- if the Court's not going to  
24 consider it in making its decision, I'm satisfied, Judge.

25 THE COURT: All right. The Court does find that a  
  
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1 ruling's unnecessary because the information that is provided  
2 in the subject paragraph does not affect the guideline range,  
3 and the specific information objected to by the defendant is  
4 not something that the Court considers determinative insofar as  
5 the proper sentence to be applied.

6 Okay. We talked about paragraph 19 to some extent. Let  
7 me say this in general, Mr. Johnson: Whether the chase was at  
8 30 miles per hour or 60 miles per hour doesn't particularly  
9 matter to me.

10 Whether the police officer was mistaken about whether an  
11 offense had been committed that would allow him to pull over  
12 the defendant, again, doesn't particularly matter to me.

13 The important thing for me is that he attempted to pull  
14 over the defendant's vehicle, and the defendant did not comply  
15 with the law by pulling over, at that time.

16 Understanding that, tell me what's still at issue in your  
17 objection to paragraph 19 that we need to take up.

18 MR. JOHNSON: Judge, paragraph 19 -- you've already  
19 made your ruling as it related to paragraph 45. It also  
20 relates to a two-level enhancement under paragraph 48 as to  
21 whether that flight was reckless, and one of the factual bases  
22 that they use is that two cars were run off the road, and they  
23 put that in their PSR.

24 You can clearly see the video: that, when oncoming  
25 motorists or motorists that they're coming upon see the

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1       flashing lights, they have pulled off to the side of the road  
2       to let the police cars pass. That's not the defendant running  
3       them off the road.

4           So I think there's a big difference when cars have to  
5       drive off the road because of the actions -- and, ultimately,  
6       it is the action of the defendant not pulling over, but the  
7       reason they're pulling over is because they're required to pull  
8       over under law when they see flashing lights. So the motorists  
9       did what they're supposed to do.

10          Does that rise to the level of reckless endangerment --  
11       somebody having a seven-minute "going from the gas station,"  
12       three of which was on his property or the dirt road going to  
13       his property -- family property -- that it requires a two-level  
14       enhancement? I don't believe so, Judge.

15          And that was my main objection to that, other than what's  
16       already been stated --

17           THE COURT: All right.

18           MR. JOHNSON: -- which related to the pointing of the  
19       firearm.

20           THE COURT: And I will say, insofar as the objection  
21       to the statement that the firearm was pointed at the officer,  
22       that, at this point, what I've concluded is simply that there's  
23       not sufficient evidence for me to say one way or the other, but  
24       I've allowed the government to point me to what it thinks would  
25       support that contention to the extent that it matters.

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1 Previously, when we're dealing with the government's  
2 objection to paragraph 45 and the alternative ground for the  
3 application of that four-point enhancement, everyone came to  
4 the conclusion that -- that it didn't matter whether the  
5 defendant actually pointed the firearm at an officer.

6 Again, I'll give you the chance to prove that if you want.  
7 Otherwise, I'm just going to conclude that it can't be stated  
8 specifically one way or the other whether the firearm was  
9 actually pointed at the officer.

10 MR. DILLON: Your Honor, first, I -- again, to  
11 proffer, I think what the officer would say is that he believed  
12 it was pointed in his direction. I don't think that we're  
13 going to hear any testimony -- whether recalled or not -- that  
14 he's going to definitively say if it was dead-spot-on at him,  
15 or, simply, it's in his direction, I guess -- the best he can  
16 say -- in the middle of the country at night. He did have his  
17 lights on, and that's how he was able to see the gun, but he  
18 also didn't wait around to see how good an aim Mr. Ledbetter  
19 was.

20 This enhancement, though, I think, doesn't rest solely  
21 upon the pointing. It's reckless endangerment during flight.

22 The white SUV that the government directed the Court to is  
23 exactly what was in Officer Hicks's report. Whether you want  
24 to say he forced him off the roadway, he pulled over to avoid  
25 the pursuit, whatever it might have been, as Mr. Johnson has

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1 correctly acknowledged, is all the responsibility of the  
2 defendant. He caused this setting.

3 And, as the Court could have seen in that video, when he  
4 first turns east onto that first county road, it's just after  
5 that, that he comes upon this white SUV.

6 What's also noted is the right side of the roadway goes  
7 up -- upwards into a heavy embankment before it goes down. So,  
8 but for the lucky timing, that vehicle would have had nowhere  
9 to go had it just been, you know, not even a quarter mile  
10 further west.

11 Luckily, by the time the defendant catches up to him, he's  
12 able to pull over to the side to avoid this pursuit on, again,  
13 as Mr. Johnson's accurately described, a dirt county road, very  
14 narrow, as you can see on the video.

15 It is -- I submit, if you're running from the police as  
16 you are loading a machine gun, forcing somebody off the road or  
17 to have to get out of your way at night on a narrow county  
18 road, is endangerment. There's no other way to look at it.

19 And the reckless endangerment does not require any injury  
20 actually be had. If so, we'd be dealing with different  
21 enhancements of bodily injury. This is just were they in  
22 danger? Was there a reckless endangerment? Absolutely.

23 And, as the Court has said, it doesn't matter whether he  
24 was going 30 or what, but, on the dirt road, I'd submit that  
25 he -- the defendant wasn't going 60, but he was clearly going

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1 over the speed limit as could be seen in Officer Hicks's body  
2 cam where you can see his speedometer.

3 The main purpose of putting that in -- you see in  
4 Mr. Ledbetter's rearview mirror how close Officer Hicks is.  
5 You can rely on his speedometer because, had Officer Hicks been  
6 going faster, he would have overtaken the defendant. So it is  
7 only reasonable to assume that he is at least matching the  
8 defendant's speed.

9 THE COURT: All right. Tell me more specifically  
10 about the factual dispute of running other motorists off the  
11 road.

12 MR. DILLON: Mr. Johnson, if I understand his  
13 argument just now, said the motorist simply moved over as you  
14 would anytime flashing lights are behind you.

15 Well, if an officer is simply attempting to pull somebody  
16 over or is going to a scene, yeah, the law requires that a  
17 person move as far right as practical. That's different than  
18 the scenario where there was an active police pursuit going on,  
19 and somebody's having to get out of the way of somebody fleeing  
20 from law enforcement.

21 I completely understand the argument that, had no  
22 pedestrian, no other vehicle, ever been around, the only  
23 endangerment we'd really point to is could the officer have  
24 been in danger?

25 But, here, you actually have another civilian having to

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1 get out of the way, having to move his vehicle off the roadway  
2 in the middle of the dark night, to avoid this pursuit.

3 The defendant could have wrecked out. He doesn't know if  
4 there's stop -- stop sticks. He doesn't know what's going on  
5 and what could have happened.

6 The fact that nothing did happen is not the point that  
7 this argument turns. It's whether he endangered, and the  
8 answer's clearly yes.

9 As required, you know, essentially, in the underlying  
10 felony pursuit, did he endanger somebody? Yes.

11 THE COURT: All right. Tell me about the specific  
12 fact that's in the report. It says, "Two cars were run off the  
13 road."

14 MR. DILLON: I apologize if it's two cars, Your  
15 Honor. I remember them discussing one car at least in the  
16 report that's submitted to the Court as an exhibit.

17 The incident report from McLoud Police Department is, as  
18 he comes up on this vehicle, the vehicle clearly has to exit  
19 the roadway to avoid the pursuit. It's not like he got to his  
20 driveway and simply turned in and went home for the night. You  
21 even see him. He's even kind of at an angle point -- with  
22 his -- the front of the vehicle pointing down. I think it's at  
23 the -- around the three-minute and 40-second mark. I cited  
24 that in our sentencing memo.

25 If somebody's having to avoid a pursuit, even though they

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1 don't wreck out, but they have to exit the roadway to avoid  
2 it -- he's -- he's going by them as the police are chasing him.  
3 I don't know how else to describe that other than endangerment.

4 Again, this isn't a funeral procession where there's  
5 flashing lights, and people are safely driving by. It's a  
6 police pursuit. He's doing everything he can to not be caught  
7 by the police, and, as he's doing that, he's passing civilians  
8 who have nothing to do with this, have no involvement.

9 You couple that with the nighttime, lack of lighting, the  
10 narrow road that's dirt, and that he had just come off of that  
11 high embankment and finally got to a point to where he could  
12 actually partially get off the road to avoid the defendant  
13 fleeing from the police -- you know, but for the grace of God,  
14 nothing happened.

15 THE COURT: All right. Mr. Johnson?

16 MR. JOHNSON: Judge, based on your earlier ruling  
17 where we've gone from a pointing of a firearm to now a -- he  
18 used the firearm to basically facilitate the aggravated -- or  
19 the -- in this case, eluding an officer, paragraph 48 is based  
20 on that same offense conduct, but there is a difference between  
21 reckless endangerment during flight.

22 The way that I read the *U.S. v. Dial* case and the cases  
23 regarding this is a person commits a bank robbery. That is the  
24 underlying offense that they have now committed. They are  
25 fleeing that, and they endanger people while going away from

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1 the crime they have just committed. So there has to be a nexus  
2 between the crime charged for the 48 -- paragraph 48  
3 enhancement now and the crime of, in this case, possessing a  
4 select fire firearm -- or select firearm without a tax stamp.

5 In paragraph 45, the Court found that, "Okay. I can see  
6 their nexus: that he -- when the gun came out, the officers  
7 didn't arrest him."

8 But the reason that they are pursuing him has absolutely  
9 nothing to do with the crime that he has pled guilty and is  
10 sitting here today. It has to do with a alleged broken  
11 taillight or an alleged crossing of a center line. The firearm  
12 in no way enhanced that flight. That's not why he is fleeing.  
13 Okay?

14 So there has to be a nexus between the underlying crime --  
15 in this case, possession of a firearm -- and the flight in  
16 order to get this enhancement, especially when you've just  
17 given him a four-level enhancement for the exact same conduct,  
18 if I understand the Court's ruling correctly.

19 So, if the government's going to make that argument on  
20 paragraph 45, paragraph 48 requires a higher standard. It does  
21 require a nexus, and the statute says "a nexus." The *U.S. v.*  
22 *Dial* case, 524 F.3d 783, that I cited in my brief -- or in my  
23 objections requires that nexus, and there is no nexus between  
24 that. This is a broken taillight case, if we are to believe  
25 the officer.

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1           So I'd ask the Court not to give him another two-level  
2 enhancement basically based on the same level -- or the same  
3 conduct that the Court already gave him a four-level  
4 enhancement now in paragraph 45.

5           THE COURT: All right. I understand that legal  
6 argument. I want to make sure that I've got the factual  
7 argument sorted out first.

8           MR. JOHNSON: Yes, sir.

9           THE COURT: And so Mr. Dillon says they're not going  
10 to try to prove up -- or this is my interpretation. They're  
11 not going to try to prove up that two cars were forced off the  
12 road. They do say that one car was forced off the road or had  
13 to move off the road in order to avoid being in the course of  
14 this pursuit, and that constitutes the reckless endangerment.

15          Tell me what I should know about that. Do we have a  
16 factual dispute there?

17          MR. JOHNSON: Judge, I -- my factual dispute  
18 actually, I think, in -- helps the government. What I saw on  
19 the video is one car pull off to the right and one car that's  
20 oncoming pull off to that right. I saw two vehicles that  
21 pulled over during the course of this pursuit, if we're going  
22 to call it "a pursuit." He did not pull over for the police,  
23 so I guess we'll call that "a pursuit."

24          I saw two cars pull over. I didn't see him tailgate them.  
25 I didn't see him bump the car. I didn't get -- see him get

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1 right on the bumper where the car had no other opportunity --  
2 long before these vehicles even arrived -- because you don't  
3 see the car pull over. What you see is, by the time that this  
4 Ford Ranger -- going at 45 miles an hour -- comes up to this  
5 car, the car's already pulled over on the side.

6 On the -- later on in the GoPro -- and this is all on my  
7 client's GoPro, his own head video -- another car you see has  
8 already pulled over to the other side seeing the oncoming  
9 police lights. You don't see why they pulled over. It's safe  
10 to assume -- and I don't think you can assume anything, but  
11 they saw the flashing lights. They pulled over.

12 They don't know it's a high-speed chase. There's no  
13 evidence presented they knew it was a -- or not a high-speed  
14 chase -- a pursuit. There's no evidence that there was any  
15 other safe place they couldn't have pulled off. All you know  
16 is the vehicles have pulled off before the police vehicle and  
17 the Ford Ranger arrived to where those vehicles are.

18 You know, I -- I -- I cannot sit here and argue and tell  
19 you that, if you don't pull over for the police, that there is  
20 not some level of danger -- dangerous. There always is. If  
21 you don't pull over immediately or don't pull over in a safe  
22 spot, there's going to be danger. I mean, to argue  
23 otherwise -- there is no other argument.

24 But, in this case, to say that he forced vehicles off the  
25 road, I think, is an inaccurate statement.

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1 THE COURT: All right. Mr. Dillon?

2 MR. DILLON: Just briefly.

3 THE COURT: You can tell me anything you want on the  
4 factual dispute and respond to that statement, but then let's  
5 get to the legal dispute too.

6 MR. DILLON: Yes, Your Honor.

7 With all due respect, Mr. Johnson's looking at this in a  
8 vacuum. If it wasn't for the pursuit, would that vehicle have  
9 had to exit the roadway? No.

10 Was he in danger, regardless of it, the point that he  
11 recognizes what's speeding down the road at him and moves over?

12 He's -- there's always a reckless endangerment. The  
13 reckless endangerment is acts or actions by the defendant  
14 caused towards others. Just because they are able to respond  
15 and avoid an actual collision or something to that effect, the  
16 defendant doesn't get the benefit for that. He's already  
17 caused the reckless endangerment.

18 So -- and I don't know if the Court wants to address this  
19 nexus argument or not.

20 THE COURT: I --

21 MR. DILLON: I'm happy to.

22 THE COURT: Yeah, please do.

23 MR. DILLON: I think that probation did a very good  
24 job of, one, clarifying what the Tenth Circuit case law is when  
25 it relates to a nexus in this adjustment. There doesn't have

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1 to be one. I think the government has sufficiently covered in  
2 its sentencing memo, though, we believe that there is a nexus.

3 Mr. Johnson wants to say they weren't trying to pull him  
4 over for the firearm. Again, he's looking at it in a vacuum.  
5 Had the defendant pulled over, had he not raised his weapon or  
6 pulled his weapon from the vehicle when the officers got to the  
7 property -- he's alluded. He would have been arrested.

8 It's -- only makes sense that they would have discovered  
9 the weapon. It has a select fire switch on it. They don't  
10 even have to go test it to have PC -- that it's an illegal  
11 weapon.

12 It's not the reason that the defendant -- that the officer  
13 is stopping him or attempting to arrest him. It's what's going  
14 on with the defendant?

15 He has a select fire, and the only reason the officers  
16 didn't know it was a select fire that night is because he  
17 pulled it on them and caused them to retreat, which he was  
18 proud of.

19 So we believe there is a nexus. However, there's no nexus  
20 required.

21 But, again, to the endangerment, these are the actions  
22 caused by the defendant. It's not whether somebody was able to  
23 safely exit the roadway without crashing or if there was  
24 actually a collision. It's was the defendant causing reckless  
25 endangerment by the fact that there were other people on that

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1 roadway?

2 This is after he's ran two stop signs in town.

3 The endangerment is clear. He had no regard to any  
4 traffic law or to anybody else on the roadway. He had one  
5 goal: get to the house and get the guns.

6 THE COURT: All right. Everybody feel free to  
7 stretch your legs for just a minute while I go through my notes  
8 on this one.

9 (A recess is taken from 11:06 a.m. to 11:23 a.m.)

10 THE COURT: All right. We got a lot going on in this  
11 one.

12 So, with respect to the defendant's objections to  
13 paragraphs 19 and 48 and the objection to the application,  
14 specifically, of a two-point adjustment for reckless  
15 endangerment during flight, the Court finds the following facts  
16 are supported:

17 first, the defendant failed to yield when a police officer  
18 attempted to pull him over;

19 second, the defendant attempted to elude police by driving  
20 away and leading police on a chase;

21 third, the defendant violated state law not just by  
22 failing to pull over but by exceeding speed limits and failing  
23 to stop at stop signs;

24 fourth, the defendant -- or pardon me. Fourth, at least  
25 one vehicle was required to rapidly exit the roadway in order

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1 to get out of the path of Defendant's vehicle and the pursuing  
2 police officer;

3 and, fifth, when the defendant arrived at his family's  
4 property, he exited his vehicle while holding the machine gun  
5 that is the subject of the charge at issue today and held that  
6 gun in plain view of the police officer as the police officer  
7 drove up to the gate at that property.

8 Based on these facts, the Court finds that the defendant  
9 recklessly created a substantial risk of death or serious  
10 bodily injury to another person in the course of fleeing from a  
11 police officer, and the Court finds that there is a connection  
12 between the crime of possession of a machine gun and the flight  
13 from police and that the defendant had the gun during that  
14 flight, and it was in his hand when he exited the vehicle and  
15 was in view of the police.

16 Therefore, the Court concludes that the two-point  
17 enhancement under Section 3C1.2 of the sentencing guidelines is  
18 properly applied in this case.

19 The defendant's objections to paragraphs 19 and 48 are  
20 denied to the extent that they disagree with those conclusions  
21 and findings of the Court.

22 Insofar as the other factual material that the defendant  
23 objects to in those paragraphs, the Court finds that a ruling  
24 is unnecessary as it does not affect the sentencing  
25 guidelines -- it does not -- and will not be considered by the

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1 Court in determining its sentence in this case.

2 All right. What's next?

3 We've got...

4 I think what was stated as an objection to paragraph 22  
5 and a dispute about what gun was at issue -- is that objection  
6 still at issue?

7 MR. JOHNSON: Judge, it -- it's still an issue. It  
8 doesn't -- it's not paramount to this. It doesn't go towards  
9 the guidelines. It was paragraph 19 and which I misstated the  
10 weapon. The weapon in paragraph 22, if this is the video  
11 outside of the police station that was played at the detention  
12 hearing, was an AR-15 and not an AK carbine, but, regardless,  
13 it's not -- it doesn't affect the guideline range one way or  
14 the other.

15 THE COURT: All right. Anything I need to know about  
16 that, Mr. Dillon?

17 MR. DILLON: Your Honor, only to clarify, and maybe  
18 this will clarify Mr. Johnson's response to the Court. There  
19 are two incidents that took place outside of the McLoud Police  
20 Department. There is one in February in which there is a  
21 heated exchange from the defendant to the McLoud police chief.  
22 In that video, he had an AR.

23 There is a video in, I believe, May of this year where he  
24 is standing across the street from the McLoud Police Department  
25 with his kit on, and, in that video, he basically says,

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1 "They've shut down their Facebook page. They're hiding. I'm  
2 still here. We're all going to die but, between now and then,  
3 live," something to that effect.

4 He is clearly holding the AK that he was arrested with,  
5 and that's the paragraph that, I believe, is being referenced,  
6 and that's why we put the footnote in there that he was -- that  
7 the objections were wrong in those two instances: the eluding,  
8 and then I think it's called "Liberty or Death" -- is the name  
9 of the video that the defendant posted where he has the AK  
10 again.

11 MR. JOHNSON: If that's the video they're referring  
12 to, Judge, that is an AK-style carbine. Obviously, there was  
13 three of them. Whether that's the select fire I don't think is  
14 paramount to determining the guidelines.

15 THE COURT: All right. The Court will deny the  
16 objection, then, as to paragraph 22 and finds that the  
17 information presented is accurately stated. All it states  
18 there, insofar as the identity of the gun, is that the  
19 defendant was holding an AK-47-style carbine and doesn't  
20 specify whether it was the specific select auto gun that's at  
21 issue.

22 Let's turn, then, to the next objection. So that's to  
23 paragraph 23, and so I think that there's simply an objection  
24 to the way that the facts would be interpreted in the  
25 defendant's objection to paragraph 23. Is there any factual

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1 finding that I need to make insofar as that?

2 MR. JOHNSON: No, Your Honor. If you're not going to  
3 consider that in making an appropriate sentence determination,  
4 then, no, sir, there's not.

5 THE COURT: All right. The Court finds that a  
6 factual ruling is unnecessary on that objection to paragraph 23  
7 as the information provided does not affect the guidelines and  
8 will not be considered by the Court in determining the sentence  
9 in the case.

10 All right. Next we have an objection to paragraph 37, and  
11 this is simply a detail of firearms that were in the Building  
12 14 -- what's referred to as "Building 14." Tell me what I need  
13 to consider insofar as this objection.

14 MR. JOHNSON: Again, Judge, I just object to this  
15 even being in the presentence report. I see no reason for it.  
16 Everybody knows those were not his weapons. They didn't belong  
17 to him. He wasn't in possession of those. They should not  
18 have been included.

19 I think the Court's already made clear what the Court's  
20 going to consider and not consider. I just didn't consider it  
21 offense conduct, and therefore, it shouldn't have been put in  
22 there.

23 MR. DILLON: Your Honor, I -- I think, to the extent  
24 that it was relevant, like, during the pursuit, when he tells  
25 his mother to have Art get the guns, things like that, there

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were obviously a large number of firearms available. I think it's appropriate to consider. Obviously, he has some direction or control over them.

I don't believe that there's been any official determination made who fire -- what firearms belonged to who, but Mr. Johnson is correct. Those firearms were not located at least in the small area in which the defendant was sleeping. We have reason to believe that he had access to those other areas, but I don't think that we've asked -- specifically, in the number of firearms under 2K1.2, we've not attempted to attribute those to him in any way.

The government did -- would like to ask a question of the Court concerning its ruling at least as to paragraph 23. I understand that it -- those portions of conversations by the defendant do not affect the guideline that would be determined by the Court. However, I thought that the Court said that your -- the Court was not going to consider those in determining a sentence either.

The government would take issue with that. We believe they're highly relevant and probative as to the defendant's mind-set, respect for the law, and his intentions of what he would use those firearms for.

THE COURT: All right.

MR. DILLON: We think they're probative to that respect.

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1                   THE COURT: Okay. That's an appropriate point, and  
2 so let's circle back to that, but, first, let me deal with the  
3 objection to paragraph 37 first.

4                   Insofar as that objection, the Court denies it and finds  
5 that the information as presented is accurate. There is no  
6 attribution of particular guns to the defendant, and so the  
7 objection is denied.

8                   Then let's go back to paragraph 23, and I had focused on  
9 the actual objection itself. Tell me a little bit more about  
10 why that information is material, even if it doesn't affect the  
11 guidelines.

12                  MR. DILLON: Your Honor, again, I think that, when  
13 the Court is determining the appropriate sentence for this  
14 defendant, there's no limit to the amount of information that  
15 the Court can receive in determining that. I think that we're  
16 a little bit unique in this case because we have so many  
17 statements made by the defendant either by video or by social  
18 media. It gets into his mind-set and why he possessed those  
19 guns.

20                  The government submits -- you know, make argument as  
21 towards the appropriate sentence that this wasn't simply a  
22 dispute with McLoud Police Department. The defendant's ideas  
23 and ideology reached much further than that when he makes  
24 references to "boog" -- "I will boog with." I think that  
25 that's relevant.

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1 He talks about it's better than waiting to get offed every  
2 day.

3 There's just certain things in here that -- you know, his  
4 March 14th statement of cool excuses -- the one that begins  
5 there -- and he talks about, "I'm still going to be the one  
6 driving without my seat belt on and my select fire and my  
7 grenades."

8 It's what he's wanting to do with these weapons and the  
9 antagonistic nature he took during the offense conduct. Again,  
10 it doesn't affect the guidelines, but it definitely affects the  
11 considerations to be given by somebody who simply possessed an  
12 illegal item and used it for nothing more than target practice  
13 versus somebody who possessed an illegal machine gun and had  
14 much worse intentions for it.

15 THE COURT: All right. Mr. Johnson?

16 MR. JOHNSON: Judge, I don't even know where to  
17 begin. This is protected First Amendment speech. I'm sorry  
18 that the government doesn't like his ideology, doesn't like  
19 that he's a Trump supporter, maybe. I don't know. But he's  
20 allowed to speak however he wants to speak. It's his actions  
21 that weigh in on this Court, I would hope.

22 And then to sit there and mischaracterize with FBU, which  
23 stands for "Facebook user unknown" -- they don't even know who  
24 this individual is -- that basically states, "Hey, this guy I  
25 will boog with."

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1 That's the guy that sent that to him.

2 "Oh, that's how I met you. You sent that comment to me."

3 Doesn't imply that he is going to do any of those kinds of  
4 actions.

5 Yeah, this is an ongoing dispute, and the Court -- the  
6 Court is in a very unique position because I agreed to allow  
7 the videotaped statement that he made to the FBI to be viewed  
8 by this Court so you can see his candidness, his honesty, and  
9 how he answers every question very directly with them. He's  
10 not elusive. He doesn't minimize his role. He's a Marine. He  
11 says it has a season, and he's very straightforward with that.

12 So, for the government to say that he had some kind of  
13 nefarious plan -- there is no nefarious plan. He was  
14 protecting his family from what he believed to be a threat from  
15 the McLoud Police Department, which is very well documented in  
16 this PSI. There is nothing else.

17 If they're going to pick and choose all the bad things  
18 from Facebook and basically put a page -- there was 26,000  
19 pages of this kind of information, almost all of it good. They  
20 didn't put that. So, you know, I would hope the Court wouldn't  
21 consider it.

22 I do agree with the government there is no limit on what  
23 the Court can determine for an appropriate sentencing, but, if  
24 the Court is going to go down that road, I would at least hope  
25 that it would look at his interview with the FBI, take it into

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1 context, look at his candidness, his straightforwardness, his  
2 lack of minimization, and his acceptance of responsibility  
3 right off the bat -- doesn't lie about one thing -- before it  
4 determines and takes out-of-context statements and blows them  
5 way out of proportion, which I believe that statement does,  
6 which is why I've objected to it.

7 THE COURT: All right. My ruling on the objection  
8 stands insofar as the matters at issue do not affect the  
9 guideline range.

10 As far as the relevance of the information that's  
11 presented insofar as the Court's determination of the sentence,  
12 I'll say this: I do take the government's point that at least  
13 some of this speaks to the defendant's conduct and character,  
14 and so I will consider it insofar as any arguments that the  
15 government wishes to present in -- in that regard, but I  
16 certainly acknowledge that this is a -- an Internet  
17 conversation, which I'm inherent -- I believe are inherently  
18 suspect.

19 And, B, it is -- we're talking about only a portion of the  
20 defendant's communications, and so that -- it does not, by any  
21 means, tell me everything that I need to know about  
22 Mr. Ledbetter.

23 So I would welcome any information that the defendant  
24 wants to present as far as conduct -- or as far as context,  
25 and, certainly, you've already done so, as you mentioned, in --

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1 insofar as the video that was presented.

2 Okay. With that, let's turn, then, to our next objection.  
3 So we have an objection to paragraph 45. Is there anything  
4 about that, that we haven't already dealt with?

5 MR. JOHNSON: No, Your Honor. I believe paragraph  
6 45, 48, 49, 53, and paragraph 111, just to cut to the chase,  
7 even though we haven't specifically mentioned the last three,  
8 have already been decided and ruled on by the Court.

9 THE COURT: All right. Mr. Dillon, do you agree?

10 MR. DILLON: Yes, Your Honor.

11 THE COURT: Okay. That should conclude, then, by my  
12 count, all of the objections that are listed in the addendum  
13 based on -- or let me say first those portions of the report,  
14 as to which no objection was made, are adopted as findings of  
15 the Court for sentencing purposes.

16 With that information and then the findings specifically  
17 made by the Court in considering the various objections, it  
18 appears that we remain at a total offense level of 25 and that  
19 the defendant's criminal history category is one, and that  
20 results in an advisory guideline imprisonment range of 57 to 71  
21 months.

22 Does any party disagree with that calculation?

23 MR. DILLON: No, Your Honor.

24 MR. JOHNSON: To the calculation, no, Your Honor.

25 THE COURT: All right. Is there a motion for

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1 departure from the guidelines by either the government or the  
2 defendant?

3 MR. DILLON: Not by the government.

4 MR. JOHNSON: Just by argument only, Judge.

5 THE COURT: All right. And I'll say in general there  
6 are departures, and there are variances. To the extent that  
7 you're raising common issues, it's always my preference that we  
8 take it up in the course of considering a variance rather than  
9 a departure, but I don't want to cut you off if there's  
10 something that you want to present insofar as departure.

11 MR. JOHNSON: No, Your Honor. It'd be -- be a  
12 variance.

13 THE COURT: Okay. All right. And then I think we've  
14 got it covered, but I want to ask one more time just to be  
15 sure. Does either the government or the defendant have  
16 anything further to present on the issues to be considered with  
17 respect to the determination of the appropriate guideline  
18 range, whether that's the facts or the conclusions in the  
19 report or the -- anything insofar as departure or the ultimate  
20 calculation of the guidelines?

21 MR. DILLON: Not by the government.

22 MR. JOHNSON: No, Your Honor.

23 THE COURT: Okay. All right. The Court concludes,  
24 then, that the total offense level is 25, and the defendant's  
25 criminal history category is one. That results in an advisory

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1 guideline imprisonment range of 57 to 71 months, and the Court  
2 so concludes.

3 At this point then, we turn to the question in full of  
4 what is the appropriate consequence under the law for the  
5 defendant's criminal actions that are at issue here, including  
6 any argument for variance?

7 Does either party request to present evidence in that  
8 regard?

9 MR. DILLON: The government does not.

10 MR. JOHNSON: No, Your Honor. Just by argument.

11 THE COURT: Okay. How are we doing as far as -- it's  
12 now 11:45. My suggestion is that we have the argument; and  
13 then I'm going to take a recess; and, at that point, everybody  
14 will get a break; but, if there's a request or a need to take a  
15 break now, then I'm happy to accommodate you.

16 MR. JOHNSON: We're ready, Judge.

17 MR. DILLON: We're ready.

18 THE COURT: All right. Seeing none, then let's  
19 proceed, and I'll hear argument from the government and then  
20 turn to the defendant, and, at that point, Mr. Ledbetter will  
21 have the opportunity to address the Court, if he wishes to do  
22 so.

23 MR. DILLON: Your Honor, counsel for the defendant  
24 has, on a few occasions, represented today even that this is  
25 simply a matter he didn't pay a tax. That's not true. I'll

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1 direct the Court to government sentencing memo page 12,  
2 footnote seven.

3 This is a prohibited item. That's it. You can't apply to  
4 ATF and pay some -- you know, what's being characterized as --  
5 almost as a nominal fee and alleviate what his conduct would  
6 have been. It was a post-1986 firearm. He can't register it.  
7 That's why, in fact, you can't charge him under Title 26,  
8 because it's a legal impossibility for him to have a tax  
9 violation because he can't pay the tax, and I think that it's  
10 either just a simple misunderstanding or it's an attempt to  
11 mischaracterize and minimize what his actual conduct was.

12 I think that one of the things that should be viewed is,  
13 in fact, what he even admitted to FBI. His dispute with McLoud  
14 starts in, you know, February of this year. He purchased that  
15 first AK-47 and modified it prior to any dispute with McLoud.  
16 So to somehow connect these two things is not true. Even he  
17 admitted it under his Miranda. So it's just -- it doesn't make  
18 sense.

19 What we're talking about is this is about his ideology and  
20 what the purpose for those weapons are, and, while I understand  
21 and I agree Internet conversations can be speculative, they --  
22 you know, some people are, you know, referred to as "keyboard  
23 warriors." He's not.

24 How do we know that? We've got video -- plethora of video  
25 showing what he stands for. He's standing in front of -- not

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1 even one -- two state capitols, announcing what he stands for;  
2 his unwillingness to follow the law; his willingness to use  
3 violence to enforce what he believes his rights are despite  
4 what Congress has passed, what the Courts have upheld.

5 And he acknowledges throughout that time that his conduct  
6 is wrong, that it's unlawful. He just refuses to do anything  
7 to adhere to the law. He acts in open defiance, to use his own  
8 words.

9 It goes further than that, though. He encourages others  
10 to openly defy the law. He actually ridicules them, and that's  
11 why we put some of the messages in the memo that we did --  
12 where he is encouraging people -- he berates them if they won't  
13 stand up. I think he says, "We'll see if they're just talking  
14 hard."

15 He requests, as an admin of the Oklahoma chapter of New  
16 Sons of Liberty -- that he wants, quote, "pipe hitters." Very  
17 illustrative. Granted, he didn't say "shooters."

18 But he also asked another individual, when they're talking  
19 about wanting to join New Sons of Liberty, "Are you willing to  
20 fight, kill, and be killed by the government? Are you willing  
21 to kill the government?"

22 He says later that, despite his time in the military -- I  
23 don't know how else to paraphrase this. He says, "Fuck the  
24 military." That's his quote. He has no respect for them.

25 He has no respect for law enforcement. This isn't about

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1 McLoud no matter how much they want to turn it on its head and  
2 point to one little thing.

3 He says that his family was threatened. By what? Seat  
4 belts, because, on more than one occasion, that's what he says.  
5 "If you pull -- I'm going to drive off without my seat belt."  
6 He says this in person to the McLoud police chief. He also  
7 reiterates it on Facebook in another conversation. "I'm going  
8 to be the one driving around without my seat belt and with  
9 select fire and grenades."

10 He's willing to spill his blood. He told the chief of  
11 police, if they pulled him over for the seat belt and tried to  
12 enforce it, he would spill their blood. In his words, "I am  
13 one of many."

14 He knows he has an audience. He knows that what he is  
15 doing is not simply protected speech. He wants to act like  
16 there's a shield of, "I can say anything, and the First  
17 Amendment says it should never be brought up or used against  
18 me."

19 I think Judge Mitchell called it out precisely for what it  
20 should be. These are threats. They are threats to law  
21 enforcement. "You do your job, and I will shoot you. I will  
22 spill your blood."

23 We don't have to get into his head, and we don't have to  
24 simply look at his Internet commentary. I don't know why he  
25 chose to film all the things that he did, but, again, we're not

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1 talking about somebody who is smoking marijuana and finally  
2 realizes, you know, "Is it really worth smoking marijuana,  
3 because it can land me in federal prison."

4 While this is a possession offense, what we are talking  
5 about is his ideology. You saw firsthand how deeply embedded  
6 this ideology is to him, the lengths that he will go to, to get  
7 his message out; the lengths that he will go to, to defy law  
8 enforcement.

9 Mr. Johnson said earlier, "Well, they could have still  
10 arrested him."

11 I don't know how many times lately we hear in the news  
12 about deescalation, and Mr. Johnson actually suggests that, for  
13 an individual who, before he even stopped, chambered a round  
14 into a machine gun; called ahead to a residence we know has  
15 numerous, numerous other firearms; tells them to get them  
16 ready -- as soon as he jumps out of the vehicle, says, "Get  
17 them ready" -- and Mr. Johnson suggests, "Well, I mean, they  
18 could have still arrested him."

19 It would have been a bloody gun bath. It's what the  
20 defendant wanted.

21 As what's talked about in the detention hearing and as he  
22 talks about in Facebook, words means something. He ridicules  
23 others that just talk hard. I suggest that he's done  
24 everything to show this Court that he's not just talking hard.  
25 He means what he says.

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1           His mother testified at detention hearing that he is a  
2 truthful person. Judge Mitchell locked on to that too. Aren't  
3 we supposed to believe this truthful person? He has gone out  
4 of his way over and over to make sure that everyone believes  
5 him. To stand back now and say, "Well, that's just talk. It's  
6 just First Amendment. He was afraid by the McLoud Police  
7 Department," is just completely unrepresented by what he does.

8           Did his actions in Guthrie and misrepresenting himself as  
9 Duncan Lemp, this right wing martyr who was killed, by the way,  
10 while they were attempting to execute a firearms violations  
11 warrant -- what did Guthrie have to do with McLoud? Nothing.

12           What did him going to Kansas and saying, "I've got illegal  
13 weapons on me right now" -- what did that have to do with  
14 McLoud?

15           His speech at the capitol -- and that's why we wanted that  
16 last part included in the PSR, because it was so important.  
17 His words, how he chose to end his speech -- "I will use all  
18 the weapons" -- and he pauses -- "all the illegal weapons to  
19 fight terrorists, foreign and domestic."

20           And while we did misstate the portion where his stepdad  
21 had, in fact, not said that he referred to police as  
22 "terrorists," he referred to "terrorist laws." Such as a seat  
23 belt? This is what this man's willing to spill blood for. A  
24 seat belt. As little as that.

25           I don't see how anything, other than incapacitation and

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1       deterrence -- not just specific to him but a general deterrence  
2       to his audience that he preaches to about this open defiance  
3       and the willingness to be pipe hitters. "Are you willing to  
4       kill or be killed for this?"

5       This is definitely not a tax case, and it stretches far  
6       past possession, and that is why the government says that he  
7       deserves a "top of the guideline" sentence.

8           THE COURT: Thank you.

9           MR. JOHNSON: May I address from the podium, Your  
10       Honor?

11          THE COURT: Yes.

12          MR. JOHNSON: May I keep my mask on? I speak loud.

13          THE COURT: Yes. If we have a problem, we'll let you  
14       know.

15          MR. JOHNSON: Thank you, Your Honor.

16          May it please the Court, Counsel, Mr. Ledbetter: Judge,  
17       we don't punish people in the United States of America for  
18       ideology regardless of what Mr. Dillon wants to believe.

19          I specifically agreed with him and asked for him to show  
20       those videos, and the two specific ones are his speech about  
21       his life on the Oklahoma state capitol and also the interview  
22       that was, maybe, 10 seconds' worth at the Kansas state capitol.  
23       They were talking about closing down businesses and mask  
24       mandates.

25          Are we going to arrest the tens of thousands of people in

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1 Kansas that were protesting that day because they didn't  
2 believe in the government's right to enforce mask mandates and  
3 close down business, because that's what that was: a protest.

4 And his response on the state capitol of Oklahoma, when he  
5 goes through his career as a Marine, as a boxer, fighting ISIS,  
6 was, "I will defend myself from violence by using violence. If  
7 they use violence upon me, I will use violence."

8 He didn't advocate using violence.

9 He didn't say, "Overthrow the government."

10 He didn't tell people to get out and do a boogaloo as the  
11 government would suggest in some of their sentencing  
12 memorandums or in the PSR.

13 He just told people, "If people are violent against you,  
14 you don't have to take it. You can be violent back," because  
15 he talked about his experiences -- and I wanted you to watch  
16 that video -- of how much he was bullied as a child, okay, and  
17 that's all that speech was about.

18 This is an open-carry state. He is allowed to carry a  
19 weapon.

20 And, Mr. Dillon, you are 100 percent wrong. That weapon  
21 that you keep talking about was manufactured in 1976. It  
22 hasn't been put in any of your reports. It was manufactured in  
23 West Virginia.

24 And, if he wanted to modify it, all he had to do was apply  
25 for a Class III license, get a tax stamp, and modify it.

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1 I have plenty of friends that have Class III licenses, and  
2 we go out, and we shoot select fire weapons all the time. Why?  
3 They have a license to do it, they've paid the appropriate fee  
4 to do it, and they have the appropriate safe in which the ATF  
5 can come to their house and look to make sure that weapon is  
6 stored properly.

7 So that is a right as an American. It is not a prohibited  
8 weapon. It's prohibited from certain people from having it.  
9 But you can have that weapon as long as you go through a series  
10 of steps, which he did not do.

11 The Facebook posts, which they've given you slight  
12 snippets of and which I made such a big deal in my objection  
13 about, does not show his ideology. It shows unknown Facebook  
14 users talking to him about certain things after he made his  
15 speeches on this.

16 This is a dispute with the McLoud Police Department. He  
17 left his house and moved into a little trailer -- almost a  
18 shipping container -- on the front of his parents' property to  
19 make sure that that officer who had threatened to kill them  
20 would not do it again. He was protecting his parents. I don't  
21 have an issue with that, Judge. I think it's very admirable.

22 I think it's very admirable that this young man served his  
23 country in the Marine Corps. You know, they made a big deal  
24 about going and finding one officer, one major, from the U.S.S.  
25 *San Antonio* that had some negative comments about him, but at

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1 least the PSR got it right and went through every single  
2 ribbon, award, and medal that he received and all the areas he  
3 was deployed to in defense of our country.

4 And it didn't stop there. If we can remember back to  
5 2016, our enemy was ISIS. Our president, President Trump --  
6 still our president right now -- advocated fighting ISIS.

7 What did he do? He went overseas, and he fought ISIS as a  
8 medical technician, as an American. He did what everybody  
9 wanted him to do, and they're going to criticize him for doing  
10 that? Absolutely not, Judge.

11 He has earned the right through his service to this  
12 country and his patriotism to have his ideology. That's what  
13 it means to be an American.

14 If you act on certain ideologies; if you threaten to blow  
15 up government buildings; if you threaten to go around killing  
16 police officers; if you threaten to wreck, mayhem, and rob  
17 banks and do certain things with these weapons, then you are a  
18 criminal. You crossed that line from being a patriot to being  
19 a criminal. He didn't cross that line. What he did was  
20 modify -- not one -- two weapons. Okay?

21 Much was made -- and you have the transcript from the  
22 detention hearing in front of Judge Mitchell -- about the Close  
23 Quarter training center that they set up that he's teaching his  
24 friends, and it's actually not him shooting the video. He's on  
25 the video. That's somebody else's GoPro that -- he's on the

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1 video, but somebody else's -- that, on the silhouettes, it said  
2 "police."

3 The reason I wanted that video for you to watch, Judge --  
4 not one of those silhouettes that they are shooting has the  
5 word "police" on it. So where they came up with that, I don't  
6 know, but it did not say "police" on that.

7 And you have the video. I think it's Exhibit Number 1.  
8 It's a minute and 24 seconds, I believe. Watch it. See if it  
9 says "police" on it, because, Judge, for them to sit there and  
10 say that he is fighting all of law enforcement -- he went and  
11 made complaints to -- about the McLoud Police Department to  
12 other law enforcement agencies. This officer was found to have  
13 been in the wrong and ultimately was fired.

14 There were other complaints that were made that, quite  
15 frankly, I -- I mean, led to some anger, led to some meetings  
16 at the McLoud Police Department. Nothing was done on it, but,  
17 you know, that's for the McLoud Police Department. If the FBI  
18 decides they want to investigate that, by all means, knock  
19 themselves out.

20 Looking at certain Facebook posts that have been happening  
21 in this country over the last seven months and social  
22 injustice -- you know, you hear the word "racial injustice,"  
23 but it's social injustice. It's not just certain groups that  
24 are being discriminated against. It's a lot of groups that  
25 have been discriminated against.

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1           And what I hear today is the United States government  
2 attempting to punish him for a certain ideology that -- quite  
3 frankly, every weekend I go out prior to the election, and I'd  
4 see 5,000 trucks driving up and down with signs and flags on  
5 the back of them. They might disagree with other ideologies,  
6 but they have the absolute right to have that ideology. They  
7 have their guns around their necks -- most of them assault-type  
8 weapons -- they have their guns on their hips, and all that  
9 means is they're Americans, Judge, because they have that  
10 right.

11           And so I would hope that we are not going to punish this  
12 gentleman because his ideology might differ from the U.S.  
13 attorney that is prosecuting him.

14           The action that he did, other than making those select  
15 fire weapons that he's being held accountable for, are the  
16 explosive devices. Were those in his vehicle? No. They were  
17 at his home. They were meant to protect his home, his parents'  
18 home, if somebody ever came there and tried to use violence  
19 against him unlawfully. If legally they were there, he doesn't  
20 have an issue with it.

21           He, as you've looked in his presentence report, is a very  
22 law-abiding citizen. He was hoping to become an officer in the  
23 military, but the DUI that was reduced to reckless driving  
24 derailed that. Okay? He understood that.

25           But, that being said, Judge, there is nothing in his

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1 criminal history that would show that he is a criminal -- not  
2 one bit. The fact that he is very proficient with firearms  
3 because of his training in the military and because he went  
4 over there and did things that, quite frankly, none of us  
5 did -- fighting ISIS, who our president said was the number one  
6 enemy of this country -- I find offensive now that they are  
7 saying, "We don't like that ideology."

8 His ideology isn't against all law enforcement. It is  
9 against the McLoud Police Department because they didn't take  
10 action against a certain one of their officers that threatened  
11 the lives of his family over a trash can and property dispute.  
12 That's how petty it was. And it escalated and escalated and  
13 escalated. Okay?

14 The fact that McLoud Police Department would come and try  
15 to enforce laws way outside their jurisdiction on his family's  
16 property, which is even in a separate county, is what escalated  
17 this; and, ultimately, that officer was fired, and the other  
18 officer they complained about has been relieved as well.

19 Obviously, they still have a beef, for lack of a better  
20 expression, with the police chief, and I'm sure he has his own  
21 issues.

22 Judge, when the government asks you to sentence him to the  
23 upper end of the guideline range -- even the probation officer  
24 thought that an advisory -- or a sentence below the advisory  
25 guideline range was -- was agreeable in this. In Part F, they

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1 put -- and they even put the factors for the Court to consider,  
2 and a lot of times they don't do this, but even they  
3 recommended a sentence below the guideline range. Why?  
4 Because he's not a criminal, Judge.

5 When you look at the one -- what I consider to be the most  
6 egregious thing that he did -- not pulling over for the  
7 police -- I understand why he didn't. I don't agree with it,  
8 and he and I have talked about it many times, but even that,  
9 Judge, is a misdemeanor. That was a misdemeanor that he was  
10 committing.

11 Now, they added the pointing a firearm to make it a felony  
12 to get a sealed warrant so the FBI could swoop in with their  
13 tactical teams and arrest him.

14 He had the weapon with him right then. Did he assault  
15 them? Did he fight to the death? Did he throw grenades? No.  
16 It was a lawful arrest.

17 They didn't use violence against him. Why would he use  
18 violence back?

19 And, if you can look at the videos, Judge, he's not going  
20 around, trying to intimidate people with this firearm. He's  
21 not pointing it. He's very well trained in it because of his  
22 Marine Corps training. He has very good trigger discipline,  
23 and he holds it the way it's supposed to be held. He clears it  
24 the way it's supposed to be cleared. It's never pointed at a  
25 person and never held in a dangerous manner.

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1           If we're going to say that, "You have a weapon, and,  
2 therefore, you are a danger to society," that is against what  
3 the state has passed in the legislature, and it's against what  
4 the Second Amendment holds, Judge.

5           What my client did wrong was he took a weapon and made it  
6 into a select fire twice -- for him and one of his buddies --  
7 and he should not have done that.

8           What my client did wrong was he bought a prop or a  
9 paperweight hand grenade and filled it with tannenite  
10 (verbatim) to make it into an explosive device. He should not  
11 have done that.

12          What my client did wrong was he took two quart bottles,  
13 filled them with diesel gasoline, and wrapped them with a rag  
14 and kept them inside his storage container in case somebody  
15 unlawfully ever came there and tried to attack his family like  
16 they said they were going to. That was wrong.

17          But that's it, Judge. Everything else he did was  
18 protected under our Constitution and under rights, quite  
19 frankly, that he was willing to die for in service of our  
20 country to get there.

21          He has no criminal history. He has no criminal conduct.

22          If the government thought and the state thought what he  
23 did was so egregious, he'd have pending state charges, but you  
24 yourself have watched that video, and I hope -- he didn't point  
25 that weapon at anybody.

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1                   Mr. Dillon made a big point of reading all the things that  
2 have to go along with pointing a firearm: malicious manner and  
3 a manner in which to attempt to intimidate somebody with  
4 threatening behavior. He did none of that. He looked down to  
5 make sure it was clear in the proper way. The helmet cam  
6 looked down at the weapon because the helmet follows the  
7 weapon. If the weapon's sitting right there, the head's  
8 sitting right there. That is not pointed at the officer.

9                   And, even the officer on his video -- all he said was,  
10 "Hey, he got out with an AR," not that, "He's pointing it at  
11 me," or anything else.

12                  And, in the paragraph that I pointed you to, Judge, even  
13 the officer said they were aware that this compound -- because  
14 they knew this was an ongoing dispute with this family. They  
15 knew this family had weapons. They decided to back off not  
16 because he pointed a gun at them. They decided to back off and  
17 just come back at a later date with an arrest warrant, which is  
18 what they did, but they gave it to the federal government.

19                  Judge, I don't believe in punishing people that aren't  
20 criminals. I don't believe in punishing people that have  
21 different ideologies. There's a lot of people in this state  
22 that I disagree vehemently with what they think and believe,  
23 but I don't hold it against them, because that's their right.  
24 Okay?

25                  I'd ask the Court to consider his lack of criminal

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1 history, his service to this country, his service after he  
2 served his country, all the great things that he did prior to  
3 this year, okay, in determining an appropriate sentence.

4 The fact that, when the rest of us are sitting on TV and  
5 watching people protest what they believe is wrong, because  
6 a lot of us did; the fact that he actually, out there, is  
7 protesting what he believes in -- we can't hold that against  
8 him. We shouldn't hold that against him, and I believe that's  
9 what the government is attempting to do. That is not fair,  
10 Judge.

11 I believe an appropriate sentence in this -- and I've  
12 talked to him. I believe that a message has to be sent not  
13 because of his ideology, but we have laws regarding firearms  
14 for certain reasons. He knows he's a convicted felon and will  
15 never have a firearm again.

16 I believe an appropriate sentence is 12 months and a day.  
17 It serves as a deterrent, it serves as punishment, and, quite  
18 frankly, it rewards him for the mitigation that he's done for  
19 this country. As a Marine, he wrote a blank check up to and  
20 payable by his life for all of us in this courtroom today, and  
21 that's something that can't be disregarded, Judge.

22 He continued by fighting ISIS on his own as a -- as a  
23 combat medic, okay, until they were defeated. These are things  
24 that I don't think should be discounted, Judge.

25 And the fact that he has a dispute with the police -- not

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1 one bullet was fired. Not one bomb was thrown. Not any  
2 arrests were ever made. No punches were ever thrown. Words  
3 were exchanged. That's it. Words. We don't punish people for  
4 words in this country, Judge, unless it's an absolute threat of  
5 violence, such as, "I'm going to blow up a bank," "I'm going to  
6 blow up a building," or "I'm going to kill every one of you."  
7 That's not what was said, Judge.

8 Thank you.

9 THE COURT: Thank you.

10 MR. JOHNSON: I do believe my client does have some  
11 allocution. He'd like to talk to the Court.

12 THE COURT: All right. I'll hear that now.

13 And then, Mr. Dillon, I saw you stand up, and so I'll let  
14 you conclude in a moment.

15 But, Mr. Ledbetter, if there's something that you'd like  
16 to say, then I'd be pleased to hear it.

17 THE DEFENDANT: Is it okay if I take my mask off,  
18 sir?

19 THE COURT: Yes.

20 THE DEFENDANT: I -- I have a statement arranged up,  
21 but, as -- as my lawyer said, sir, the weapon I did purchase --  
22 it was a 1976.

23 I told them the truth on everything. I wasn't trying to  
24 escape out of it. I was -- I obviously posted all those videos  
25 on purpose to show what was happening, you know, and a lot of

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1 the stuff they said, yes, is happening. They're just leaving  
2 out half of the story, saying all of the -- you know, coming in  
3 at the end, after I'm reacting, and telling nothing what  
4 happened beforehand and saying this is just my ideology, that  
5 nothing happened from anyone else, just me.

6 Starting with the -- the night that I was -- I've never  
7 pulled -- the DUI? I slept in my car. That's the only other  
8 time I've been arrested in the United States here at all. I  
9 slept in my vehicle to not drive anywhere. So that's the only  
10 other thing that kept me out of getting back in the military  
11 and everything. So I -- trying to do the right thing on that  
12 too. I was arrested for sleeping.

13 According -- I'm sorry.

14 THE COURT: Take your time.

15 THE DEFENDANT: The night that -- that I was  
16 pulled -- they were trying to pull me over, that -- if -- if  
17 causation -- if the causation is looked at as, hey, this is --  
18 this is endangering someone because the causation was breaking  
19 the law, the videos themselves prove that it was an illegal  
20 stop, which would be the first breaking of the law, which, yes,  
21 I admit. It's not good to not pull over for a police officer.  
22 I -- I'm a normal person like everybody else. I have fear and  
23 everything. I was horrified.

24 Of course, I want to pull over. The only -- that's the  
25 only time in my life I haven't pulled over -- I've hardly ever

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1 been pulled over -- because I thought they were actually going  
2 to kill me from everything that they -- I said it in the  
3 videos. Like, I'm going -- yeah, I said a lot of -- I was  
4 angry and everything, but I said, "I'm going to die if you  
5 don't come here and see this. They're trying to get me on  
6 the" -- so they were following me at the gas station, watching  
7 me, pulled out not using their blinkers at all, and just  
8 following me for miles, riding on my bumper, and the video  
9 itself proves it.

10 Also, when I'm on the phone in that video, they called me.  
11 The police called me.

12 I mean, all of these videos prove that I was trying to  
13 cooperate with any police that I could to tell them about all  
14 these things that were happening, what -- with the -- the  
15 videos that they showed at the pretrial that were presented by  
16 the chief of police himself that they purposefully cut out  
17 parts of it.

18 They admitted to pedophile sexual charges by their  
19 officers, felonies, all of -- all of that, you know. All of  
20 this is proven beforehand that just -- more stuff kept coming  
21 out.

22 So they called me as soon as I was up there. In the  
23 video, it says, "Yeah, I'm -- I'm in pursuit of Christopher  
24 Ledbetter." They knew who I was. They were following me.  
25 They weren't trying to just pull over a person that they saw on

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1 the road. It -- it proves that in the video as well.

2 Then Officer Caskey, who I'd talked to before off duty --  
3 obviously, I know his name. He's in my phone. He called me  
4 and said, "Hey, what's happening?"

5 And I said, "It's McLoud again, and I didn't do anything,  
6 and they're" -- and he's like, "What did they try to" -- and  
7 he's like, "I'm down here talking to them right now," and you  
8 can see it in the whole video, because I have him on  
9 speakerphone, talking to the police, because I've contacted so  
10 many of them trying to get something done -- Mike Boof  
11 (phonetic) as well, the -- the sheriffs, all of them.

12 And he said, "Oh, they're here trying to" -- I -- I said,  
13 "What's the problem, and we can talk."

14 He said, "They're trying to pull you over for a taillight  
15 out."

16 And I said, "Okay. Well, I didn't" -- I still thought  
17 they were trying to kill me, you know, because of everything  
18 that they've done so far, you know.

19 This was after -- this was the second time they'd tried to  
20 raid my family's place after the first, you know. They -- they  
21 circled it, and they had people walking through the woods, cut  
22 the back of our fence, threatening other neighbors, all -- all  
23 kinds of stuff. They -- just like they threatened the other  
24 ladies with the children to not talk about the officers', you  
25 know -- inappropriate with their children in the middle of

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1 town.

2 But he said, "Yes," he said, "it's for your taillight  
3 out."

4 And I said, "Okay. Well, let me test it right here where  
5 you can see it down the road." I tested it, showed him both  
6 the blinkers, everything.

7 And I said, "Hey, they -- he's lying. The only one  
8 committed a crime here is him. You see that I'm actually  
9 trying to get away. I'm actually in fear for my life now. I'm  
10 not making this up."

11 And that's when they left in the video -- is right after I  
12 proved that it was a lie anyways, and then it's proven yet  
13 again -- not by my opinion -- on the paperwork presented later  
14 saying that it was for swerving, changing the story yet again.

15 And it's not just that. This happened many, many times,  
16 you know.

17 So, with all that -- and the FBI, after they came  
18 through -- I mean, just like all of this shouldn't matter to my  
19 case because I just -- I did -- I did it on purpose. I put --  
20 I put the videos of the gun online on purpose because I'd went  
21 to so many police officers and talked with them and sat with  
22 them and tried to get something done. I had -- I have  
23 police -- I had sheriffs' cards in my wallet when they got me.  
24 You know, 30 minutes before, I was stopped at a car wreck  
25 trying to help somebody out, you know.

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1           All of this stuff -- they're only presenting half of it  
2 and not what happened before.

3           But the FBI, when they came through -- they told me -- I  
4 would love for that whole video where they're interviewing me  
5 to be shown here because it shows -- we -- we go over  
6 everything that happened, but they told me, "When we come out  
7 to your family's place, everything's going to be okay. We're  
8 not like that."

9           I told them, you know, "Thank you. Just don't hurt  
10 anybody," you know. I'm -- I'm like, "I'm here. I admit  
11 everything of what I done. I'm not trying to lie about it. I  
12 was doing this to try to get somebody in here," because I knew  
13 that having a machine gun is going to attract federal  
14 attention.

15           I'd went to -- and you'll see more in my statement that  
16 I've had lots of dealings with the FBI before in debriefings  
17 from overseas and everything, so they had -- they'd been  
18 watching me a long time before now.

19           But, yeah, they said -- they -- they went through -- they  
20 didn't present my family any warrant, kicked them off their own  
21 property, you know, with armored vehicles. I mean, I'm sure  
22 you've seen some of the videos on the news.

23           They went through and, with five different houses,  
24 presented no warrant, cut open our renter's daughter's feeding  
25 tube with a razor blade. She's special needs. She needs a

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1 feeding tube. They cut that open, cut open her food bags,  
2 threw -- threw out oil everywhere, you know, stuff like that,  
3 stuff that is just really sad.

4 But I'll get started with my statement now.

5 I would like to start by thanking my family and friends  
6 whom I love very much.

7 My mother and father have both turned 67 years old.

8 My grandfather was put into hospice care. He -- he died  
9 in October now.

10 My mother passed out from heat exhaustion while doing the  
11 construction work I normally do with medics called there.

12 But I've admitted to my charge of possessing a select fire  
13 weapon without the tax stamp from the beginning. Obviously, I  
14 know the numbers for it and everything. I admitted to  
15 everything to them, you know. 1976. Serial Number GV2300.

16 Furthermore, I haven't lied about anything, and that's --  
17 that's proven with all of my videos, that I'm the only one  
18 that -- every single other of these statements has been  
19 proven -- not opinion but proven fact -- to have changed  
20 stories or straight-out proven lies.

21 Why would I -- why would you have to lie if -- if you're  
22 not hiding something, that a lot more has been happening.  
23 Like, just the videos even on the pretrial cut out pedophile  
24 charges. They had to cut it in half and then use my own videos  
25 to show them for evidence because they couldn't continue the

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1 body cam without showing stuff like that. They -- and that's  
2 the one video they used.

3 If I -- I know that, if I'm released, I will not be  
4 allowed to touch any firearm, and I will abide by that, so...

5 I don't want to be taken away from my family again, you  
6 know. If -- if -- if they come and kill me or -- and I'm not  
7 able to defend myself, then I've done everything I can do to  
8 try to show everybody that I'm doing the right thing, and I'm  
9 not out to hurt everybody, especially in all those videos as  
10 well.

11 They say, oh, I want to do violence. Almost every single  
12 one -- and every -- every contact I've had with a police  
13 officer, I said, "Please do not pull a weapon me." This is  
14 just because I've had so many weapons pulled on me here without  
15 doing anything when I was unarmed, and then that was the only  
16 thing that got them to leave me alone.

17 I've committed no violence. I've never pointed a weapon  
18 at anyone in this entire country in my whole life.

19 I have saved lives here on multiple occasions, so -- so  
20 my -- my victim number is -- is zero for any of this. I  
21 haven't...

22 As far as being a flight risk, I have very little money  
23 saved up, may lose my vehicle if I'm not allowed to go back to  
24 work. I have no desire to leave my family for any amount of  
25 money.

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1           And I'm not even eligible to obtain a U.S. passport  
2 because I am still making monthly payments to the Department of  
3 State due to the emergency passport they issued me in Iraq.  
4 This was due to being held for questioning in the U.S. allied  
5 facility after we aided the Kurdish allies and U.S. Special  
6 Operations Forces in ground fighting against ISIS.

7           And, inside of this facility, I was questioned by the  
8 FBI -- this is my first contact with the FBI -- and they  
9 debriefed us there inside of the -- the prison where they held,  
10 you know, children -- children. The people there were being  
11 subsidized by U.S. tax dollars torturing children, political  
12 prisoners as well. And we were also thrown in with ISIS  
13 fighters who tried to kill us, and, afterwards, I came back  
14 here.

15           I was also questioned by the FBI and Department of  
16 Homeland Security in Canada, actually, before crossing into the  
17 U.S.

18           I volunteered completely unpaid and in good faith any  
19 information related to U.S. national security, international  
20 security of U.S. allies, U.S. foreign aids and weapon security,  
21 sex slavery or so-called "human trafficking," and other crimes  
22 against humanity.

23           After all this, despite any personal disagreements I may  
24 have with the FBI's actions or inactions, I will still risk my  
25 life to protect any of their innocent families, as I have done

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1 and would do for anyone.

2 I believe in treating other human beings the way that I  
3 would like to be treated. That's my only ideology.

4 I -- I'm -- everything is so complicated, and I've seen  
5 it -- seen it everywhere -- people fighting over everything --  
6 and it's not that complicated. It's -- if no one's hurting  
7 you -- I believe that you shouldn't hurt someone that's not  
8 hurting you, hurting someone that is a peaceful person, and  
9 that's the only ideology I have.

10 So I -- I'd like to apologize to the Court for wasting  
11 your time and the F -- FBI's joint terrorism task force for  
12 wasting millions on the investigation as I'm clearly not a  
13 terrorist. On the contrary, I'm an antiterrorist. The act of  
14 using violence or the threat of on peaceful people to induce  
15 fear and compliance, especially for religious or political  
16 goals -- I find that to be devoid of any honor or decency.

17 I do uphold and defend the Constitution of the United  
18 States of America, and it is beyond any reason -- question of  
19 reasonable doubt that I love this country, and I love freedom.  
20 So, therefore, it is my honest hope that in the future this  
21 time and money may be used more effectively to combat actual  
22 terrorism, crimes against children, and crimes against  
23 humanity.

24 And, as for me, I'd just like -- I'd just like to go back  
25 to work and get to spend time with my family that I haven't had

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1 much time with and try to have a peaceful life.

2 And I thank you.

3 THE COURT: Thank you. I appreciate all of the  
4 information that you've shared. Thank you.

5 Mr. Dillon, I promised you a chance to respond to, I  
6 think, some points that were brought up by Mr. Johnson.

7 MR. DILLON: Yes.

8 First, Your Honor, Mr. Johnson is right about one thing.  
9 Exhibit 1 is the CQB video. The government takes offense at  
10 his besmirchment of our character and representation to the  
11 Court. Unfortunately, I'm technologically inept, I guess, but,  
12 on 19 seconds, you can clearly see the silhouette that's being  
13 shot at --

14 THE COURT: You should talk to me.

15 MR. DILLON: -- that is saying -- it says "police"  
16 and has a badge. It's in his discovery.

17 Also in his discovery is the photographs of the two  
18 silhouettes laying on the ground, having been shot, that are  
19 these silhouettes that say "police" with a badge on it.

20 I don't know where he gets this idea that we have simply  
21 made this up. He has the same videos that we had, that  
22 probation has, that we showed at the detention hearing.  
23 Nowhere, in fact, is his claim that we've just made this up.

24 Mr. Johnson is right, that there is a marking of 1976 on  
25 the firearm. Unfortunately, for that argument, is the

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1 firearms -- the firearm itself was assembled by Two Rivers.  
2 It -- the frame was manufactured by Childers. Childers opened  
3 in 2012. The 1976 marking is simply a stamped reference to  
4 Soviets. It's a gimmick for people that like AK-47s. It's not  
5 a manufactured date. The gun itself was shipped in 2017. It  
6 was purchased by the defendant February 15th of this year,  
7 2020. So this idea that it's simply a tax stamp and that he  
8 could have done it is just flat wrong. It's nowhere in the  
9 evidence.

10 The defendant -- let's be clear about the ideology that  
11 we're talking about attributing to him -- is we're talking  
12 about the same person who, on January 14th, 2020, says, "The  
13 only good cop is a dead one."

14 When he goes to the BLM protests in Tulsa, I believe, May  
15 31st -- it was a Saturday. As he's kitting up, a female -- and  
16 this is on his public YouTube page. As he's recording, a  
17 female asks, "What are you going to do if the military comes?"

18 He responds, "I was part of the military," and, Your --  
19 again, Your Honor, I can only quote him to get the full effect.  
20 He says, "I will fucking kill all those motherfuckers." This  
21 is the respect for the government, for law enforcement.

22 I appreciate that he wants to protect -- but I thought it  
23 was interesting -- their families. He even gave that caveat as  
24 he was talking to you. "I'd protect their peaceful families."

25 We're not asking the Court to punish him for not liking

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1 the government. We're asking the Court to punish him for what  
2 he wanted to use his illegal firearm for, what he said he would  
3 use it for, what he almost used it for. It goes to his respect  
4 for the law, which is absolutely a factor to be considered for  
5 the Court.

6 And I think the Court heard today he still blames  
7 everybody but himself. There's always a reason.

8 He says things are proven by fact. They should be, but  
9 they're not in his case. He says people have said things that  
10 they haven't. He says things are documented that aren't. The  
11 only evidence that has been documented -- we've brought it.  
12 We've brought it to you.

13 The only cop -- good cop's a dead cop, and he's shooting  
14 at police silhouettes with the gun that is the offense conduct,  
15 the one he's convicted for.

16 I -- I don't know how else to get around -- he says, "I  
17 won't possess guns when I get out." He knowingly said all over  
18 Facebook, all over his videos, he knew he wasn't supposed to  
19 possess that one. What good is that promise to be made?

20 He also wants to point to his FBI interview and say, "Look  
21 how truthful I was."

22 When he's talking about his friends, his followers -- he  
23 also tells in that interview towards the end that, basically,  
24 "If you don't return my property, there will be violence. My  
25 friends, my followers -- they will react violently if you don't

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1 return my property," talking about his machine gun that he  
2 cannot legally possess.

3 It -- a lot of times we have to speculate based on  
4 history, based on little nuances, about what a defendant  
5 actually intended. This is one of the few cases we don't. He  
6 put it on -- in writing and on video exactly what he wanted his  
7 actions to be viewed as.

8 So we're not talking about somebody who's being punished  
9 for not liking the government. We're talking about somebody  
10 who possessed a machine gun and what he said he would use that  
11 machine gun for, the lengths that he would go to, to defy the  
12 government because he believes that the laws aren't just, that  
13 they're not as they should be; and, instead of going to his  
14 legislator, his congressman, he goes to his ammunition. He  
15 goes to his guns. That's how he gets his point across.

16 THE COURT: All right. It's 12:30 -- or just about  
17 12:30 now. I know everybody's been here without a break for  
18 lunch.

19 Given where we are, let's have everybody come back at  
20 1:30, and I'm going to take the time between now and 1:30 to go  
21 back through all of the material that was presented. I take  
22 these decisions very seriously. I want to consider the  
23 information presented. I want to consider all of the evidence  
24 and the statement of the defendant and the arguments of  
25 counsel. So let's be back at, as I said, 1:30 p.m.

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1 We're adjourned.

2 (A recess is taken from 12:27 p.m. to 2:06 p.m.)

3 THE COURT: All right. We got everybody here?

4 We're back on the record in *United States v. Christopher*  
5 *Ledbetter*. It's Case No. CR-20-168.

6 Before proceeding with the pronouncement of sentence, I  
7 want to mention one procedural matter.

8 After the date of the defendant's guilty plea, a new  
9 federal law became effective requiring the Court to issue a  
10 written and oral reminder to the parties that the government is  
11 obligated under *Brady v. Maryland* and its progeny to disclose  
12 to the defendant all material evidence in its possession or  
13 knowledge.

14 To the extent that such requirement -- requirement might  
15 still apply in this case, I am reminding the parties now of  
16 that obligation, and I will enter a written order as part of  
17 today's proceeding.

18 I assume that none of that matters given the procedural  
19 stance in the case, but, nevertheless, I wanted to at least  
20 comply and mention the order -- mention the requirement under  
21 the law.

22 Proceeding, then, to the sentence in the case, the Court  
23 is required to impose a sentence that is sufficient but not  
24 greater than necessary to comply with the purposes of  
25 sentencing identified at 18 U.S.C. Section 3553.

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1           In determining the sentence to be imposed in this case,  
2 I have considered the statutory factors. I've considered the  
3 information presented in the presentence investigation report  
4 as addressed this morning, the arguments of counsel, and the  
5 statement of Mr. Ledbetter. In particular, I focused on the  
6 nature and circumstances of the offense and the history and  
7 characteristics of Mr. Ledbetter -- good and bad. I have  
8 tried to understand the full picture of who he is.

9           I've also considered the guideline range for  
10 imprisonment as calculated under the United States sentencing  
11 guidelines, which, in this case, recommend a sentence of 57  
12 to 71 months.

13           As far as Mr. Ledbetter's personal history, there is  
14 much good to be recognized. He has served in the military  
15 and has no history of violent crime. All of that's to be  
16 commended.

17           He's maintained steady employment and has the support of  
18 his family.

19           In evaluating the nature of the offense, I focused on  
20 what Mr. Ledbetter has actually done, not what he thinks or  
21 what he said. The criminal conduct at issue here, though, is  
22 very serious, and it warrants a substantial punishment.  
23 Mr. Ledbetter had an illegal machine gun. He also  
24 manufactured and possessed two grenades and two incendiary  
25 devices.

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1           Then there is the pursuit incident. When a police  
2 officer attempted to pull Mr. Ledbetter over, he refused to  
3 yield, and he led the police on a chase back to his family  
4 property. He was carrying his machine gun during the chase,  
5 and he called home to ask his stepfather to get guns ready  
6 for a confrontation with the police. When Mr. Ledbetter  
7 exited the vehicle, he was carrying the machine gun, and he  
8 shouted at the police officer.

9           Then there are the threats of violence. This is an  
10 unusual case in that, while the criminal conduct at issue  
11 here is very serious, it is the fear of what else the  
12 defendant might do that -- I think it's safe to say -- drives  
13 the government's request for a "top of the guideline"  
14 sentence.

15           The government looks to the statements that  
16 Mr. Ledbetter has made about his willingness to commit  
17 violence against law enforcement officers, statements made in  
18 speeches and in videos and in Internet posts; and the  
19 government is afraid that Mr. Ledbetter will actually carry  
20 through on what he said he's going to do.

21           In considering whether that fear is justified, I do not  
22 concern myself with Mr. Ledbetter's political ideology or his  
23 lawful exercise of First Amendment or Second Amendment  
24 rights, but I am concerned when someone's ideology leads him  
25 over a cliff to land where they act in open defiance of the

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1 law. Mr. Ledbetter is free to protest improper or illegal  
2 conduct by the police, but, as citizens of this state and  
3 this country, we are all obligated to obey the law and to  
4 respect the officers charged with enforcing the law.

5 Mr. Ledbetter's repeated statements about using weapons,  
6 including illegal firearms, against police officers indicate  
7 at least some likelihood that, if not severely punished now,  
8 he would commit crimes in the future similar to the one at  
9 issue today.

10 Ultimately, as I say, I've tried to see the full picture  
11 of what happened here and who the defendant really is, and  
12 there is good, but there's a lot of bad mistakes here.

13 When applying the factors set forth in 18 U.S.C. Section  
14 3553, I conclude that the sentencing guidelines give an  
15 appropriate range of punishment for this case. In light of  
16 Mr. Ledbetter's complete lack of prior violent crimes, I  
17 believe a sentence at the bottom of the guideline range is  
18 appropriate.

19 Therefore, I will sentence Mr. Ledbetter to 57 months'  
20 imprisonment to be followed by three years of supervised  
21 release. I believe that sentence is sufficient but not  
22 greater than necessary to reflect the seriousness of the  
23 offense, to afford adequate deterrence to criminal conduct of  
24 Mr. Ledbetter and other similarly situated persons, and to  
25 achieve punishment in the most effective means possible.

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1 I'll have the defendant stand, at this time.

2 Sir, it is the judgment of the Court that you,  
3 Christopher Steven Ledbetter, are hereby committed to the  
4 custody of the Bureau of Prisons for a term of 57 months.

5 Due to your inability to pay a fine, a fine is waived.

6 It's recommended that the defendant participate in the  
7 federal Bureau of Prisons' Inmate Financial Responsibility  
8 Program at a rate determined by BOP staff in accordance with  
9 that program.

10 Upon release from imprisonment, the defendant shall be  
11 placed on supervised release for a term of three years.

12 Within 72 hours of release from custody, the defendant  
13 is obligated to report in person to the Probation Office in  
14 the district to which he is released.

15 The defendant shall comply with the standard conditions  
16 of supervision adopted by this Court while on release and  
17 shall not possess a firearm or other destructive device and  
18 shall cooperate in the collection of DNA as directed by law.

19 Further, while on release, the defendant shall comply  
20 with the special conditions listed in Part D of the  
21 presentence investigation report. The Court specifically  
22 adopts the report's justification for each of those  
23 conditions as detailed in the Recommended Conditions of  
24 Supervision section of that report.

25 It's further ordered that the defendant pay a special

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1 assessment to the United States of \$100, which shall be due  
2 immediately.

3 Finally the defendant is advised that, pursuant to the  
4 plea agreement, he has waived the right to appeal or  
5 collaterally challenge the sentence imposed by the Court  
6 except under limited circumstances.

7 To the extent that a right of appeal survives that  
8 waiver, the defendant is advised that he would appeal to the  
9 United States Court of Appeals for the Tenth Circuit; and, if  
10 he cannot pay the cost of appeal, he may apply for leave to  
11 appeal *in forma pauperis* -- that is, without prepayment of  
12 the cost -- and to have a government-appointed attorney and a  
13 transcript provided without expense to himself.

14 Notice of appeal must be filed with the clerk of this  
15 Court within 14 calendar days, or the defendant may announce  
16 his intent to appeal on the record here today.

17 Let me ask counsel for the government: Do we need to do  
18 anything today insofar as the property that's at issue?

19 MR. DILLON: Your Honor, I believe there was a  
20 motion filed yesterday for the forfeiture of property, which  
21 was part of this plea agreement. We would ask the Court to  
22 go ahead and announce that preliminary order of forfeiture.

23 THE COURT: All right. I believe the preliminary  
24 order of forfeiture has been entered, and I'll take up any  
25 final request that the government makes, whenever you make

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1 it.

2 MR. DILLON: Thank you, Your Honor.

3 THE COURT: All right. Let me ask the Probation  
4 Office, then: Did we cover everything we need to cover?

5 THE PROBATION OFFICER: Yes, Your Honor.

6 THE COURT: All right. Anything further from the  
7 government?

8 MR. DILLON: No, Your Honor.

9 THE COURT: Anything further from the defendant?

10 MR. JOHNSON: Judge, we would ask that you  
11 recommend a placement within BOP at FCI El Reno.

12 THE COURT: All right. I'll make that  
13 recommendation. As counsel knows, my recommendation to the  
14 Bureau of Prisons as far as a facility is only a  
15 recommendation. They have the discretion to assign  
16 facilities based on their own judgment.

17 Beyond that, anything further from the defendant?

18 MR. JOHNSON: No, Your Honor.

19 THE COURT: All right. Sir, you're remanded to the  
20 custody of the United States Marshal to begin immediate  
21 service of the term of imprisonment imposed by the Court.

22 We are adjourned.

23

24 (The hearing is adjourned at 2:15 p.m.)

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1 REPORTER'S CERTIFICATE

2 I, CASSY KERR, Federal Official Court Reporter in  
3 and for the United States District Court for the Western  
4 District of Oklahoma, do hereby certify that, pursuant to 28  
5 U.S. Code 753, the foregoing is a true and correct transcript  
6 of the stenographically reported proceedings held in the  
7 above-entitled matter and the transcript page format is in  
8 conformance with the regulations of the Judicial Conference  
9 of the United States.

10 DATED THIS 26th day of April, 2023.

11  
12 \_\_\_\_\_  
13 /s/Cassy Kerr  
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Oklahoma CSR License No. 1367  
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